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असाधारण

EXTRAORDINARY

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PART II — Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 22nd December, 2003:—

I

BILL NO. LXXIII OF 2003

A Bill to consolidate and amend the law relating to the administration of cantonments with a view to impart greater democratisation, improvement of their financial base to make provisions for developmental activities, proper regulation, control and management of defence lands including extension of cantonment laws to such lands situated throughout the territory of India and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Cantonments Act, 2003.

(2) It extends to the whole of India

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Short title,
extent and
commencement.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “Assistant Health Officer” means the medical officer appointed by the General Officer Commanding-in-Chief, the Command, to be the Assistant Health Officer for a cantonment;

(b) “Board” means a Cantonment Board constituted under this Act;

(c) “boundary wall” means a wall which abuts on a street and which does not exceed two and a half metres in height;

(d) “building” means a house, outhouse, stable, latrine, shed, hut or other roofed structure whether of masonry, brick, wood, mud, metal or other material, and any part thereof, and includes a well and a wall other than a boundary wall but does not include a tent or other portable and temporary shelter;

(e) “casual election” means an election held to fill a casual vacancy;

(f) “casual vacancy” means a vacancy occurring otherwise than by efflux of time in the office of an elected member of a Board and includes a vacancy in such office, arising under sub-section (2) of section 16;

(g) “Chief Executive Officer” means the person appointed under this Act to be the Chief Executive Officer of a cantonment;

(h) “civil area” means an area declared to be a civil area by the Central Government under sub-section (1) of section 46;

(i) “civil area committee” means a committee appointed under section 47;

(j) “Command” means one of the Commands into which India is for military purposes for the time being divided, and includes any area which the Central Government may, by notification in the Official Gazette, declare to be a Command for all or any of the purposes of this Act;

(k) “dairy” includes any farm, cattle-shed, milk-store, milk-shop or other place from which milk is supplied or in which milk is kept for purposes of sale or is manufactured for the sale into butter, ghee, cheese or curds, and, in relation to a dairyman who does not occupy any premises for the sale of milk, includes any place in which he keeps the vessels used by him for the storage or sale of milk;

(l) “dairyman” includes the keeper of a cow, buffalo, goat, ass or other animal, the milk of which is offered or is intended to be offered for sale for human consumption, and any supplier of milk and any occupier of a dairy;

(m) “dangerous disease” means cholera, leprosy, enteric fever, smallpox, tuberculosis, diphtheria, plague, influenza, venereal disease, hepatitis, Acquired Immune Deficiency Syndrome and any other epidemic, endemic, infectious or communicable disease which the Board may by public notice, declare to be, an infectious, contagious or communicable disease for the purposes of this Act;

(n) “Defence Estates Circle” means one of the circles into which India is, for the purposes of defence estates management, for the time being divided, and includes any area which the Central Government may, by notification in the Official Gazette, declare to be a Defence Estates Circle for all or any of the purposes of this Act;

(o) “Defence Estates Officer” means the officer appointed by the Central Government to perform the duties of the Defence Estates Officer for the purpose of this Act and the rules made thereunder;

(p) “Director General” means an officer of the Indian Defence Estates Service (IDES) appointed by the Central Government to perform the duties of the Director General, Defence Estates for the purpose of this Act and includes Senior Additional Director General and Additional Director General;

(q) "Director" means the officer appointed by the Central Government to perform the duties of the Director, Defence Estates, the Command, for the purposes of this Act and the rules made thereunder;

(r) "entitled consumer" means a person in a cantonment who is paid from the Defence Service Estimates and is authorised by general or special order of the Central Government to receive a supply of water for domestic purposes from the Military Engineer Services or the Public Works Department on such terms and conditions as may be specified in the order;

(s) "Executive Engineer" means the officer of the Military Engineer Services of that grade, having charge of the military works in a cantonment or where more than one such officer has charge of the military works in a cantonment such one of those officers as the Officer Commanding the station may designate in this behalf, and includes the officer of whatever grade in immediate executive engineering charge of a cantonment;

(t) "factory" means a factory as defined in clause (m) of section 2 of the Factories Act, 1948;

(u) "Forces" means the regular Army, Navy and Air Force or any part of any one or more of them;

(v) "General Officer Commanding-in-Chief, the Command" (GOC-in-C, Command) means the Officer Commanding any of the Commands;

(w) "General Officer Commanding the Area" means the Officer Commanding any one of the areas into which India is for military purposes for the time being divided, or any sub-area which does not form part of any such area, or any area which the Central Government may, by notification in the Official Gazette, declare to be an area for all or any of the purposes of this Act;

(x) "Group Housing" means a group of houses for dwelling purposes and may comprise all or any of the following : namely, (a) a dwelling unit, (b) open spaces intended for recreation and ventilation, (c) roads, paths, sewers, drains, water supply and ancillary installations, street lighting and other amenities, (d) convenient shopping place, schools, community hall or other amenities for common use;

(y) "Government" in relation to this Act means the Central Government;

(z) "Health Officer" means the senior executive medical officer in military employ on duty in a cantonment;

(za) "hospital" includes family welfare centre, child welfare centre, maternity centre and health centre;

(zb) "hut" means any building, no material portion of which above the plinth level is constructed of masonry or of squared timber framing or of iron framing;

(zc) "inhabitant", in relation to a cantonment, or local area means any person ordinarily residing or carrying on business or owning or occupying immovable property therein, and in case of a dispute means any person declared by the Chief Executive Officer to be an inhabitant;

(zd) "intoxicating drug" includes a narcotic drug and psychotropic substance as defined in the Narcotic Drugs and Psychotropic Substances Act, 1985 as modified from time to time;

(ze) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, meat, fish, fruits, vegetables, animals intended for human food or any other articles of human food whatsoever, with or without the consent of the owner of such place notwithstanding that there may be no common regulation

for the concurrence of buyers and sellers and whether or not any control is exercised over the business of, or the persons frequenting, the market by the owner of the place or by any other person, but shall not include a single shop or group of shops not being more than six in number and shops within unit lines;

(zf) "military" includes Air Force, Navy and other defence related establishments;

(zg) "military officer" means a person who, being an officer within the meaning of the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950, is commissioned, gazetted or in pay as an officer doing army, naval or air force duty with the army, navy or air force, or is an officer doing such duty in any arm, branch or part of any of those forces;

46 of 1950
62 of 1957
45 of 1950.

(zh) "nuisance" includes any act, omission, place, animal or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or disturbance to rest or sleep, or which is or may be dangerous to life or injurious to health or property;

(zi) "occupier" includes an owner in occupation of, or otherwise using his own land or building;

(zj) "Officer Commanding the station or Station Commander" means the military officer for the time being in command of the forces in a cantonment and if such officer is likely to be absent for more than thirty days, the General Officer Commanding-in-Chief, the Command may nominate, by an order, another military officer as "Officer Commanding the station or Station Commander";

(zk) "ordinary election" means an election held to fill a vacancy in the office of an elected member of a Board arising by efflux of time;

(zl) "owner" includes any person who is receiving or is entitled to receive the rent of any building or land whether on his own account or on behalf of himself and others or an agent or trustee, or who would so receive the rent or be entitled to receive it if the building or land were let to a tenant;

(zm) "party wall" means a wall forming part of a building and used or constructed to be used for the support or separation of adjoining buildings belonging to different owners, or constructed or adapted to be occupied by different persons;

(zn) "Principal Director" means the Officer appointed by the Central Government to perform the duties of the Principal Director, Defence Estates, the Command for the purpose of this Act and the rules made thereunder;

(zo) "private market" means a market which is not maintained by a Board and which is licensed by a Board under the provisions of this Act;

(zp) "private slaughter-house" means a slaughter-house which is not maintained by a Board and which is licensed by a Board under the provisions of this Act;

(zq) "public market" means a market maintained by a Board;

(zr) "public place" means any place which is open to the use and enjoyment of the public, whether it is actually used or enjoyed by the public or not;

(zs) "public slaughter-house" means a slaughter-house maintained by a Board;

(zt) "resident", in relation to a cantonment, means a person who maintains therein a house or a portion of a house which is at all times available for occupation by himself or his family even though he may himself reside elsewhere, provided that he has not abandoned all intention of again occupying such house either by himself or his family;

(zu) "regulation" means a regulation made by a Cantonment Board under this Act by notification in the Official Gazette;

(zv) "rule" means a rule made by the Central Government under this Act by notification in the Official Gazette;

(zw) "shed" means a slight or temporary structure for shade or shelter;

(zx) "slaughter-house" means any place ordinarily used for the slaughter of animals for the purpose of selling the flesh thereof for human consumption;

(zy) "soldier" means any person who is a soldier or sailor or an airman subject to the Army Act, 1950, the Navy Act, 1957 or the Air Force Act, 1950, as the case may be, and who is not a military officer;

(zz) "spirituous liquor" means any fermented liquor, any wine, or any alcoholic liquid obtained by distillation or the sap of any kind of palm tree; and includes any other liquid containing alcohol which the Central Government may, by notification in the Official Gazette, declare to be a spirituous liquor for the purposes of this Act;

(zza) "street" includes any way, road, lane, square, court, alley or passage in a cantonment, whether a thoroughfare or not and whether built upon or not, over which the public have a right of way and also the road-way or foot-way over any bridge or cause way;

(zzb) "sub-area" means one of the sub-areas into which India is for military purposes for the time being divided and includes, for all or any of the purposes of this Act, any territory which the Central Government may, by notification in the Official Gazette, declare to be a sub-area for such purposes;

(zzc) "trade or commercial premises" means any premises used or intended to be used for carrying on any trade, commerce or industry;

(zzd) "vehicle" means a wheeled conveyance of any description which is capable of being used on a street, and includes a motor-car, motor lorry, motor omnibus, cart, locomotive, tram-car, hand-cart, truck, motor-cycle, bicycle, tricycle and rickshaw;

(zze) "water-works" includes all lakes, tanks, streams, cisterns, springs, pumps, wells, reservoirs, aqueducts, water-trucks, sluices mains, pipes, culverts, hydrants, stand-pipes, and conduits and all machinery, lands, buildings, bridges and things used for, or intended for the purpose of supplying water to a cantonment; and

(zzf) "year" means the year commencing on the first day of April.

CHAPTER II

DEFINITION AND DELIMITATION OF CANTONMENT

3. (1) The Central Government may, by notification in the Official Gazette, declare any place or places along with boundaries in which any part of the Forces is quartered or which, being in the vicinity of any such place or places, is or are required for the service of such forces to be a cantonment for the purposes of this Act and of all other enactments for the time being in force, and may, by a like notification, declare that any cantonment shall cease to be a cantonment.

Definition of
cantonments.

(2) The Central Government may, by a like notification, define the limits of any cantonment for the aforesaid purposes.

(3) When any place is declared a cantonment for the first time, the Central Government may, until a Board is constituted in accordance with the provisions of this Act, by order make any provision which appears necessary to it either for the administration of the cantonment or for the constitution of the Board.

46 of 1950.
62 of 1957.
45 of 1950.

(4) The Central Government may, by notification in the Official Gazette, direct that in any place declared a cantonment under sub-section (1) the provisions of any enactment relating to local self-government other than this Act shall have effect only to such extent or subject to such modifications, or that any authority constituted under any such enactment shall exercise authority only to such extent, as may be specified in the notification.

Alteration
of limits of
cantonments.

4. (1) The Central Government may after consulting the State Government and the Board concerned, by notification in the Official Gazette, declare its intention to include within the cantonment any local area situated in the vicinity thereof or to exclude from the cantonment any local area comprised therein.

(2) Any inhabitant of a cantonment or local area in respect of which notification has been published under sub-section (1) may, within six weeks from the date of notification, submit in writing to the Central Government through the General Officer Commanding-in-Chief, the Command, an objection to the notification, and the Central Government shall take such objection into consideration.

(3) On the expiry of six weeks from the date of the notification, the Central Government may after considering the objections, if any, which have been submitted under sub-section (2), by notification in the Official Gazette, include the local area in respect of which the notification was published under sub-section (1), or any part thereof, in the cantonment or, as the case may be, exclude such area or any part thereof from the cantonment.

The effect of
including area
in cantonment.

5. When, by a notification under section 4, any local area is included in a cantonment, such area shall thereupon become subject to this Act and to all other enactments for the time being in force throughout the cantonment and to all notifications, rules, regulations, by-laws, orders and directions issued or made thereunder.

Disposal of
cantonment
fund when
area ceases to
be a
cantonment.

6. (1) When, by a notification under section 3, any cantonment ceases to be a cantonment and the local area comprised therein is immediately placed under the control of a local authority, the balance of the cantonment fund and other property vesting in the Board shall vest in such local authority, and the liabilities of the Board shall be transferred to such local authority.

(2) When, in like manner, any cantonment ceases to be a cantonment and the local area comprised therein is not immediately placed under the control of a local authority, the balance of the cantonment fund and other property vesting in the Board shall vest in the Central Government, and the liabilities of the Board shall be transferred to that Government.

Disposal of
cantonment
fund when
area ceases to
be included in
a cantonment.

7. (1) When, by a notification under section 4, any local area forming part of a cantonment ceases to be under the control of a particular Board and is immediately placed under the control of some other local authority, such portion of the cantonment fund and other property vesting in the Board and such portion of the liabilities of the Board, as the Central Government may, by general or special order, direct, shall be transferred to that other local authority.

(2) When, in like manner, any local area forming part of a cantonment ceases to be under the control of a particular Board and is not immediately placed under the control of some other local authority; such portion of the cantonment fund and other property vesting in the Board shall vest in the Central Government, and such portion of the liabilities of the Board shall be transferred to that Government, as the Central Government may, by general or special order, direct.

Application
of funds and
property
transferred
under sections 6
and 7.

8. Any cantonment fund or portion of a cantonment fund or other property of a Board vesting in the Central Government under the provisions of section 6 or section 7 shall be applied in the first place to satisfy any liabilities of the Board transferred under such provisions to that Government, and in the second place for the benefit of the inhabitants of the local area which has ceased to be a cantonment or, as the case may be, part of a cantonment.

9. The Central Government may, by notification in the Official Gazette, exclude from the operation of any part of this Act the whole or any part of a cantonment, or direct that any provision of this Act shall, in the case of any cantonment —

Limitation of
operation of
Act.

(a) situated within the limits of a metropolitan area; or

(b) in which the Board is superseded under section 60,

apply with such modification as may be so specified.

CHAPTER III

CANTONMENT BOARDS

Boards

10. (1) For every cantonment there shall be a Cantonment Board.

Cantonment
Board.

(2) Every Board shall be deemed to be a municipality for the purposes of clause (e) of article 243P of the Constitution.

11. Every Board shall, by the name of the place by reference to which the cantonment is known, be a body corporate having perpetual succession and a common seal with power to acquire and hold property both movable and immovable and to contract and shall by the said name, sue and be sued.

Incorporation
of Cantonment
Board.

12. (1) Cantonments shall be divided into four categories, namely:—

Constitution of
Cantonment
Boards.

(i) Category I Cantonments, in which the population exceeds fifty thousand;

(ii) Category II Cantonments, in which the population exceeds ten thousand, but does not exceed fifty thousand;

(iii) Category III Cantonments, in which the population exceeds two thousand five hundred, but does not exceed ten thousand; and

(iv) Category IV Cantonments, in which the population does not exceed two thousand five hundred.

(2) For the purposes of sub-section (1), the population shall be calculated in accordance with the latest official census, or, if the Central Government, by general or special order, so directs, in accordance with a special census taken for the purpose.

(3) In Category I Cantonments, the Board shall consist of the following members, namely:—

(a) the Officer Commanding the station as *ex officio* or, if the Central Government so directs in respect of any cantonment, such other military officer as may be nominated in his place by the General Officer Commanding-in-Chief, the Command;

(b) the District Magistrate or an Executive Magistrate not below the rank of Additional District Magistrate nominated by him;

(c) the Chief Executive Officer;

(d) the Health Officer *ex officio*;

(e) the Executive Engineer *ex officio*;

(f) three military officers nominated by name by the Officer Commanding the station by order in writing;

(g) eight members elected under this Act.

(4) In Category II Cantonments, the Board shall consist of the following members, namely:—

(a) the Officer Commanding the station as *ex officio* or, if the Central Government so directs in respect of any cantonment, such other military officer as may be nominated in his place by the General Officer Commanding-in-Chief, the Command;

(b) the District Magistrate or an Executive Magistrate not below the rank of Additional District Magistrate nominated by him;

(c) the Chief Executive Officer;

(d) the Health Officer *ex officio*;

(e) the Executive Engineer *ex officio*;

(f) two military officers nominated by name by the Officer Commanding the station by order in writing;

(g) seven members elected under this Act.

(5) In Category III Cantonments, the Board shall consist of the following members, namely:—

(a) the Officer Commanding the station as *ex officio* or, if the Central Government so directs in respect of any cantonment, such other military officer, as may be nominated in his place by the General Officer Commanding-in-Chief, the Command;

(b) the District Magistrate or an Executive Magistrate nominated by him;

(c) the Chief Executive Officer;

(d) the Health Officer *ex officio*;

(e) the Executive Engineer *ex officio*;

(f) one military officer nominated by name by the Officer Commanding the station by order in writing;

(g) six members elected under this Act.

(6) In Category IV Cantonments, the Board shall consist of the following members, namely:—

(a) the Officer Commanding the station *ex officio* or, if the Central Government so directs in respect of any cantonment, such other military officer as may be nominated in his place by the General Officer Commanding-in-Chief, the Command;

(b) the Chief Executive Officer;

(c) two members elected under this Act.

(7) The Officer Commanding the station may, if he thinks fit, with the sanction of the General Officer Commanding-in-Chief, the Command, nominate in place of any military officer whom he is empowered to nominate under clause (f) of sub-section (3), clause (f) of sub-section (4) or clause (f) of sub-section (5), any person, whether in the service of the Government or not, who is ordinarily resident in the cantonment or in the vicinity thereof.

(8) Every election or nomination of a member of a Board and every vacancy in the elected membership thereof shall be notified by the Central Government in the Official Gazette;

(9) The Member of Parliament and Member of Legislative Assembly representing constituencies which comprises wholly or partly the cantonment area, shall be special invitees for the meetings of the Board but without a right to vote.

13. (1) Notwithstanding anything contained in section 12, if the Central Government is satisfied,—

(a) that by reason of military operations, it is necessary, or

(b) that, for the administration of the cantonment, it is desirable, to vary the constitution of the Board in any cantonment under this section, the Central Government may, by notification in the Official Gazette, make a declaration to that effect.

(2) Upon the making of a declaration under sub-section (1), the Board in the cantonment shall consist of the following members, namely:—

(a) the Officer Commanding the station,

(b) the Chief Executive Officer, and

(c) one member, not being a person in the service of the Government, nominated by the Central Government in consultation with the General Officer Commanding-in-Chief, the Command.

(3) The nomination of a member of a Board constituted under this section, and the vacancy in the membership thereof shall be notified by the Central Government in the Official Gazette.

(4) The term of office of a Board constituted by a declaration under sub-section (1) shall not ordinarily extend beyond one year:

Provided that the Central Government may from time to time, by a like declaration, extend the term of office of such a Board by any period not exceeding one year at a time:

Provided also that the Central Government shall forthwith direct that the term of office of such a Board shall cease if, in the opinion of the Central Government, the reasons stated in the declaration whereby such Board was constituted or its term of office was extended, have ceased to exist.

(5) When the term of office of a Board constituted under this section has expired or ceased, the Board shall be replaced by the former Board which, but for the declaration under sub-section (1) or sub-section (4), would have continued to hold office, or, if the term of office of such former Board has expired, by a Board constituted under section 12.

14. (1) Save as otherwise provided in this section, the term of office of a member of a Board shall be five years and shall commence from the date of the notification of his election or nomination under sub-section (8) of section 12 or from the date on which the vacancy has occurred in which he is elected or nominated, whichever date is later:

Provided that the Central Government may, when satisfied that it is necessary in order to avoid administrative difficulty, extend the term of office of all the elected members of a Board by such period not exceeding one year, as it thinks fit:

Provided further that a member whose term of office has been so extended, shall cease to hold office on the date of the notification of the election of his successor under sub-section (8) of section 12.

(2) The term of office of an *ex officio* member of a Board shall continue so long as he holds the office by virtue of which he is such a member.

(3) The term of office of a member elected to fill a casual vacancy shall commence from the date of the notification of his election, and shall continue so long only as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

(4) An outgoing member shall, unless the Central Government otherwise directs, continue in office until the election or nomination of his successor is notified under sub-section (8) of section 12.

(5) Any outgoing member may, if qualified, be re-elected or re-nominated.

Power to vary constitution of Boards in special circumstances.

Term of office of members.

Filling of
vacancies.

15. (1) Vacancies arising by efflux of time in the office of an elected member of a Board shall be filled by an ordinary election to be held on such date as the Central Government may, by notification in the Official Gazette, direct.

(2) A casual vacancy shall be filled by a casual election the date of which shall be fixed by the Central Government by notification in the Official Gazette, and shall be, as soon as may be, after the occurrence of the vacancy:

Provided that no casual election shall be held to fill a vacancy occurring within six months of any date on which the vacancy will occur by efflux of time, but such vacancy shall be filled at the next ordinary election.

Vacancies in
special cases.

16. (1) If from any cause at an ordinary election no member is elected, or if the elected member is unwilling to serve on the Board, the outgoing member shall, if qualified and willing to serve, be deemed to have been re-elected:

Provided that where there are more outgoing members qualified and willing to serve than there are vacancies to be filled under this sub-section, the outgoing members so deemed to have been re-elected shall, failing agreement amongst such members, be determined by lot under the supervision of the President of the Board and in such manner as he may decide.

(2) If a person is elected to more than one seat in a Board, then, unless he resigns all but one of the seats within fourteen days from the date on which he is declared elected, or where the dates on which he is declared elected are different in respect of different seats, from the last of such dates, all the seats shall become vacant.

(3) Vacancies arising in any of the following cases shall be filled by nomination by the Central Government after consultation with the General Officer Commanding-in-Chief, the Command, namely:—

(a) where at a casual election no member is elected;

(b) where at an ordinary election no member or an insufficient number of members is elected, or an elected member is unwilling to serve on the Board and the outgoing member is not qualified or is not willing to serve or is dead or cannot be found within a reasonable time;

(c) where at an election held when a Board is constituted for the first time no member or an insufficient number of members is elected or an elected member is unwilling to serve on the Board.

(4) For the purposes of sub-section (2) of section 15, a member nominated in pursuance of sub-section (3) of this section shall where there has been a division of the cantonment into wards, be deemed to have been elected by such ward as the Central Government may at the time of making the nomination or at any time thereafter declare.

(5) The term of office of a member nominated or deemed to have been re-elected under this section shall expire at the time at which it would have expired if he had been elected at the ordinary or casual election, as the case may be.

Oath or
affirmation.

17. (1) Every person who is by virtue of his office, or who is nominated or elected to be, a member of the Board shall, before taking his seat, make and subscribe at a meeting of the Board an oath or affirmation of his allegiance to the Constitution of India in the following form, namely:—

become
"I, A.B., having been elected a member of this Board, do
been nominated
swear in the name of God that I will bear true faith and allegiance to the Constitution
solemnly affirm
of India as by law established and that I will faithfully discharge the duty upon which
I am about to enter."

(2) If any such person fails to make and subscribe the oath or affirmation at first meeting held after the date of commencement of his term of office, the Central Government shall, by notification in the Official Gazette, declare his seat to be vacant:

Provided that a meeting where the member is absent with the leave of the Board shall not be taken into account.

18. (1) (a) Any elected member of a Board who wishes to resign his office may give his resignation in writing to the President of the Board who shall forward it for orders to the Central Government under intimation to the General Officer Commanding-in-Chief, the Command.

Resignation.

(b) Any nominated member of a Board who wishes to resign his office may forward his resignation in writing through the President of the Board to the General Officer Commanding-in-Chief, the Command for orders.

(2) If the Central Government or the General Officer Commanding-in-Chief, the Command, as the case may be, accepts the resignation, such acceptance shall be communicated to the Board, and thereupon the seat of the member resigning shall become vacant.

(3) Notwithstanding anything contained in sub-section (2), the resignation of any person elected to more than one seat in a Board from all but one of the seats in pursuance of sub-section (2) of section 16 shall take effect when such resignation is received by the President of the Board.

19. (1) The Officer commanding the station if a member of the Board shall be the President of the Board:

President and
Vice-
President.

Provided that when a military officer holding the office of the President ceases to be the Officer commanding the station merely by reason of a temporary absence from the station for a period not exceeding thirty consecutive days, he shall not vacate the office of President.

(2) Where the Officer commanding the station is not a member of the Board, the military officer nominated in his place under clause (a) of sub-section (3), sub-section (4), sub-section (5) or sub-section (6) of section 12 shall be the President of the Board.

(3) In every Board there shall be a Vice-President elected by the elected members only from amongst them in accordance with such procedure as the Central Government may by rule prescribe.

20. (1) The term of office of a Vice-President shall be five years or his residual term of office as a member, whichever is less.

Term of
office of Vice-
President.

(2) A Vice-President may resign his office by notice in writing to the President and, on the resignation being accepted by the Board, the office shall become vacant.

(3) A Vice-President may be removed from his office, at a special meeting convened for the purpose on a requisition for the same by not less than one-half of the elected members of the Board holding office, by a resolution passed by a majority of not less than two-thirds of the total number of elected members then holding office and attending and no member, other than an elected member, shall have the right to vote on the resolution:

Provided that in case of Category IV cantonments, the Vice-President may be removed if a resolution to this effect is passed by the Board.

21. (1) It shall be the duty of the President of every Board--

Duties of
President.

(a) unless prevented by reasonable cause, to convene and preside at all meetings of the Board and to regulate the conduct of business thereat;

(b) to control, direct and supervise the financial and executive administration of the Board;

(c) to perform all the duties and exercise all the powers specifically imposed or conferred on the President by or under this Act; and

(d) subject to any restrictions, limitations and conditions imposed by this Act, to exercise executive power for the purpose of carrying out the provisions of this Act and to be directly responsible for the fulfilment of the purposes of this Act;

(e) in case of gross misconduct during the course of meeting, to suspend a member other than a Chief Executive Officer from attending the unconcluded part of the meeting of the Board.

(2) The President may, by order in writing, empower the Vice-President to exercise all or any of the powers and duties referred to in clause (b) of sub-section (1) other than any power, duty or function which he is by resolution of the Board expressly forbidden to delegate.

(3) The exercise or discharge of any powers, duties or functions delegated by the President under this section shall be subject to such restrictions, limitations and conditions, if any, as may be laid down by the President and to the control of, and to revision by, the President.

(4) Every order made under sub-section (2) shall forthwith be communicated to the Board and to the General Officer Commanding-in-Chief, the Command.

Duties of Vice-President.

22. (1) It shall be the duty of the Vice-President of every Board,—

(a) in the absence of the President and unless prevented by reasonable cause, to preside at meetings of the Board and when so presiding to exercise the authority of the President under sub-section (1) of section 21;

(b) during the incapacity or temporary absence of the President or pending his appointment or succession to perform any other duty and exercise any other power of the President; and

(c) to exercise any power and perform any duty of the President which may be delegated to him under sub-section (2) of section 21.

Allowances to Vice-President and members.

23. The Vice President and each elected member of the Board shall be entitled to receive such allowances, as the Central Government may, by rule, prescribe.

Appointment of Chief Executive Officer.

24. (1) For every cantonment there shall be a Chief Executive Officer appointed by the Central Government or by such person as the Central Government may authorise in this behalf:

Provided that, in the event of temporary absence of the Chief Executive Officer, not exceeding ninety days, the Principal Director shall designate an officer under his jurisdiction to perform the duties of the Chief Executive Officer during such period.

(2) Not less than one-half of the salary of the Chief Executive Officer shall be paid by the Central Government and the balance from the cantonment fund.

(3) The Chief Executive Officer shall be the Member-Secretary of the Board and of every Committee of the Board.

Duties of Chief Executive Officer.

25. (1) Subject to the provisions of clause (c) and clause (d) of sub-section (1) of section 21, the Chief Executive Officer shall—

(a) exercise all the powers and perform all the duties conferred or imposed upon him by or under this Act or any other law for the time being in force;

(b) subject to any restrictions, limitations and conditions imposed by this Act, to exercise executive power to ensure that the administration of the Board is carried out in accordance with provisions of this Act;

(c) prescribe the duties of, and exercise supervision and control over the acts and proceedings of all, officers and employees of the Board;

(d) be responsible for the custody of all records of the Board;

(e) arrange for the performance of such duties relative to the proceedings of the Board or of any Committee of the Board or of any Committee of Arbitration constituted under this Act, as those bodies may respectively impose on him; and

(f) comply with every requisition of the Board on any matter pertaining to the administration of the cantonment.

26. (1) The Chief Executive Officer may direct the execution of any work or the doing of any act, in public interest and in accordance with the provisions of this Act and the rules made thereunder, and incur such expenditure as may be necessary in executing such work or doing such act, as the case may be, subject to the financial limits which the Board may by resolution determine subject to general guidelines issued by the Director General, Defence Estates in this regard.

Special power
of the Chief
Executive
Officer.

(2) The Chief Executive Officer may, in case of emergency, direct the execution of any work or the doing of any act which would ordinarily require the sanction of the Board and immediate execution or doing of which is in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the cantonment fund:

Provided that—

(a) he shall not act under this section without the previous sanction of the President or, in his absence, of the Vice-President;

(b) he shall not act under this section in contravention of any order of the Board prohibiting the execution of any particular work or the doing of any particular act; and

(c) he shall report forthwith the action taken under this section and the reasons therefor to the Board.

Elections

27. (1) The Board or, where a Board is not constituted in any place declared by notification under sub-section (1) of section 3 to be a cantonment, the Officer Commanding the station, shall prepare and publish an electoral roll showing the names of persons qualified to vote at elections to the Board and such roll shall be prepared, revised and finally published in such manner and on such date in each year as the Central Government may by rule prescribe.

Electoral rolls.

(2) Every person whose name appears in the final electoral roll shall, so long as the roll remains in force, be entitled to vote at an election to the Board, and no other person shall be so entitled.

(3) When a cantonment has been divided into wards, the electoral roll shall be divided into separate lists for each ward.

(4) If a new electoral roll is not published in any year on the date prescribed, the Central Government may direct that the old electoral roll shall continue in operation until the new roll is published.

Qualification
of electors.

28. (1) Every person who, on such date as may be fixed by the Central Government in this behalf by notification in the Official Gazette hereinafter in this section referred to as "the qualifying date", is not less than eighteen years of age and who has resided in the cantonment for a period of not less than six months immediately preceding the qualifying date shall, if not otherwise disqualified, be entitled to be enrolled as an elector.

Explanation.—When any place is declared a cantonment for the first time, or when any local area is first included in a cantonment, residence in the place or area comprising the cantonment on the aforesaid date shall be deemed to be residence in the cantonment for the purposes of this sub-section.

(2) A person notwithstanding that he is otherwise qualified, shall not be entitled to be enrolled as an elector if he on the qualifying date—

(i) is not a citizen of India, or

(ii) has been adjudged by a competent court to be of unsound mind, or

(iii) is an undischarged insolvent, or

(iv) has been sentenced by a Criminal Court to imprisonment for a term exceeding two years for an offence which is declared by the Central Government to be such as to unfit him to become an elector or has been sentenced by a Criminal Court for any offence under Chapter IXA of the Indian Penal Code:

45 of 1860.

Provided that any disqualification incurred by a person under clause (iv) shall terminate on the lapse of three years from the expiry of the sentence or order.

(3) If any person having been enrolled as an elector in any electoral roll subsequently becomes subject to any of the disqualifications referred to in sub-section (2), his name shall be removed from the electoral roll unless, in the case referred to in clause (iv), the disqualification is removed by the Central Government.

Qualification
for being a
member of the
Board.

29. (1) Save as hereinafter provided, every person, not being a person holding any office of profit under the Government, whose name is entered on the electoral roll of a cantonment shall be qualified for election as a member of the Board in that cantonment.

(2) No person shall be qualified for nomination as a member of a Board if he is subject to any of the disqualifications specified in sub-section (2) of section 28.

(3) No person shall be qualified for being chosen whether by election or nomination as, and for being a member of a Board, if he—

(a) has been dismissed from the service of the Government and is debarred from re-employment therein, or is a dismissed employee of a Board;

(b) is debarred from practising as a legal practitioner by order of any competent authority;

(c) holds any place of profit in the gift or at the disposal of the Board, or is a police officer, or is the servant or employer of a member of the Board; or

(d) is interested in a subsisting contract made with, or in work being done for, the Board except as a shareholder other than a director in an incorporated company; or

(e) is an officer or employee, permanent or temporary, of a Board or of any other local authority; or

(f) is a member of any other local authority; or

(g) has, by the authority referred to in clause (f) of section 31, been found to have been guilty of any of the corrupt practices specified in sub-section (2) of section 30 unless a period of five years has elapsed since the date of the decision of the authority; or

(h) fails to pay any arrears of any kind due by him otherwise than as an agent, receiver, trustee or an executor, to the Board within thirty days after the notice in this behalf has been served upon him; or

(i) is disqualified under any other provision of this Act:

Provided that a person shall not be deemed to have any interest in such a contract or work as is referred to in clause (d) by reason only of his having a share or interest in—

(a) any lease or sale or purchase of immovable property or any agreement for the same; or

(h) any agreement for the loan of money or any security for the payment of money or ~~by~~; or

(c) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or

(d) the sale to the Board of any articles in which he regularly trades or the purchase from the Board of any articles, to a value in either case not exceeding twenty-five thousand rupees in the aggregate in any year during the period of the contract or work.

30. (1) For the purposes of sections 27, 28 and 29, 'person' means an individual human being. Interpretation.

(2) The following shall be deemed to be corrupt practices within the meaning of clause (g) of sub-section (3) of section 29, namely:—

(1) "bribery" that is to say—

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his agent of any gratification to any person whomsoever, with the object, directly or indirectly of inducing—

(a) a person to stand or not to stand as, or to withdraw or not to withdraw from being, a candidate at an election; or

(b) an elector to vote or refrain from voting at an election, or as a reward to—

(i) a person for having so stood or not stood, or for having withdrawn or not having withdrawn his candidature; or

(ii) an elector for having voted or refrained from voting;

(B) the receipt of, or agreement to receive, any gratification, whether as a motive or a reward—

(a) by a person for standing or not standing as, or for withdrawing or not withdrawing, from being a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or inducing or attempting to induce any elector to vote or refrain from voting, or any candidate to withdraw or not to withdraw his candidature.

Explanation.—For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for reward but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of, any election.

(2) Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his agent with the free exercise of any electoral right;

Provided that—

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who—

(i) threatens any candidate or any elector, or any person in whom a candidate or an elector is interested, with injury of any kind including social ostracism and ex-communication or expulsion from any caste or community; or

(ii) induces or attempts to induce a candidate or an elector to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or elector within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to interfere within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his agent to vote or refrain from voting for any person on the ground of his religion, race, caste, community or language or the use of, or appeal to religious symbols or the use of, or appeal to, national symbols, such as national flag or the national emblem for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The promotion of, or attempt to promote, feelings of enmity or hatred between different classes of the citizens of India on grounds of religion, race, caste, community or language, by a candidate or his agent or any other person with the consent of a candidate or his agent for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(5) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his agent, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(6) The hiring or procuring, whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his agent or the use of such vehicle or vessel for the free conveyance of any elector other than the candidate himself, the members of his family or his agent to or from any polling station or place fixed for the poll:

Provided that the hiring of a vehicle or vessel by any elector or by several electors at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any tramcar or railway carriage by any elector at his own cost for the purpose of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation.—In this clause, the expression “vehicle” means any vehicle used or capable of being used for the purpose of road transport, whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(7) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his agent or, by any other person with the consent of a candidate or his agent, any assistance other than the giving of vote for the furtherance of the prospects of that candidate's election, from any person in the service of the Government or the Board:

Provided that where any person, in the service of the Government or the Board in the discharge or purported discharge of his official duty, makes any arrangements or provides any facilities or does any other act or thing, for, to, or in relation to, any candidate or his agent or any other person acting with the consent of the candidate or his agent whether by reason of the office held by the candidate or for any other reason, such arrangements, facilities or act or thing shall not be deemed to be assistance for the furtherance of the prospects of that candidate's election.

Explanation.—In this section, the expression "agent" includes any person who is held to have acted as an agent in connection with the election with the consent of the candidate.

31. The Central Government may, either generally or specially for any cantonment or group of cantonments, after previous publication, make rules consistent with this Act to regulate all or any of the following matters for the purpose of the holding of elections under this Act, namely:—

Power to make rules regulating elections.

- (a) the division of a cantonment into wards;
- (b) the determination of the number of members to be elected by each ward;
- (c) the preparation, revision and final publication of electoral rolls;
- (d) the reservation of wards for election of the Scheduled Castes, the Scheduled Tribes and women;
- (e) the registration of electors, the nomination of candidates, the time and manner of holding elections and the method by which votes shall be recorded;
- (f) the authority which may be an officer of the State Government by which and the manner in which disputes relating to electoral rolls or arising out of elections shall be decided, and the powers and duties of such authority and the circumstances in which such authority may declare a casual vacancy to have been created or any candidate to have been elected;
- (g) the fee to be paid for admission and consideration of any application relating to election or election disputes;
- (h) any other matter relating to elections or election disputes in respect of which the Central Government is empowered to make rules under this Chapter or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary.

Members

32. (1) No member of a Board shall vote at a meeting of the Board or of any Committee of the Board on any question relating to his own conduct or vote or take part in any discussion on any matter, other than a matter affecting generally the inhabitants of the cantonment, which affects his own pecuniary interest or the valuation of any property in respect of which he is directly or indirectly interested, or of any property of or for which he is a manager or agent.

Member not to vote on matter in which he is interested.

(2) Where any member of the Board present at the meeting of the Board or any committee of the Board believes that the person presiding over such meeting has pecuniary or other interest in any matter under discussion and moves a motion to that effect, the person so presiding—

- (a) shall not be entitled to vote on such motion, and

(b) shall, if such motion is carried, absent himself from the meeting during such discussion.

Liability of
members

33. Every member of a Board shall be liable for the loss, waste or misapplication of any money or other property belonging to, vested in, or entrusted to the management of, the Board if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while such member; and a suit for compensation for the same may be instituted against him either by the Board or by the Central Government.

Removal of
members

34. (1) The Central Government may remove from a Board any member thereof, who—

(a) becomes or is found to have been at the time of his election or nomination subject to any of the disqualifications specified in sub-section (2) of section 28 or in section 29; or

(b) has absented himself for more than three consecutive meetings or three months (whichever is later) of the Board and is unable to explain such absence to the satisfaction of the Board.

Explanation.—In computing the aforesaid period of three consecutive months, no account shall be taken of any period of absence with the leave of the Board; or

(c) has knowingly contravened the provisions of section 32; or

(d) being a legal practitioner, acts or appears on behalf of any other person against the Board in any legal proceeding or against the Government in any such proceeding relating to any matter in which the Board is or has been concerned or acts or appears on behalf of any person in any criminal proceeding instituted by or on behalf of the Board against such person; or

(e) has himself done or aided or abetted encroachments and illegal constructions on defence land in contravention of the provisions of this Act and the rules and bye-laws made thereunder.

(2) The Central Government may remove from a Board any member who, in the opinion of the Central Government, has so abused in any manner his position as a member of the Board as to render his continuance as a member detrimental to the public interests.

(3) The General Officer Commanding-in-Chief, the Command may, on receipt of a report from the Officer Commanding the station remove from a Board any military officer nominated as a member of the Board who is, in the opinion of the Officer Commanding the station, unable to discharge his duties as a member of the Board and has failed to resign his office.

(4) No member shall be removed from a Board under sub-section (1) or sub-section (2) of this section unless he has been given a reasonable opportunity of showing cause against his removal.

Consequences
of removal.

35. (1) A member removed under clause (b) of sub-section (1) or under sub-section (3) of section 34 shall, if otherwise qualified, be eligible for re-election or re-nomination.

(2) A member removed under clause (c) or clause (d) of sub-section (1) of section 34 shall not be eligible for re-election or nomination for the period during which, but for such removal, he would have continued in office.

(3) A member removed under sub-section (2) of section 34 shall not be eligible for re-election or nomination until the expiry of three years from the date of his removal.

Member of the
Board to be
deemed a
public servant.

36. Every member of the Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code and clause (c) of section 2 of the Prevention of Corruption Act, 1988.

45 of 1860.
49 of 1988.

Employees

37. (1) No person who has directly or indirectly by himself or his partner any share or interest in a contract with, by or on behalf of a Board, or in any employment under, by or on behalf of a Board, otherwise than as an employee of the Board, shall become or remain an employee of such Board.

Disqualification of person as an employee of Board.

45 of 1860.

(2) An employee of a Board who knowingly acquires or continues to have directly or indirectly by himself or his partner any share or interest in a contract with, by or on behalf of the Board or, in any employment under, by or on behalf of, the Board, otherwise than as an employee of the Board, shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

(3) Nothing in this section shall apply to any share or interest in any contract with, by or on behalf of, or employment under, by or on behalf of a Board if the same is a share in a company contracting with, or employed by, or on behalf of, the Board or is a share or interest acquired or retained with the permission of the General Officer Commanding-in-Chief, the Command in any lease or sale to, or purchase by the Board of land or building or in any agreement for the same.

(4) Every person applying for employment as an employee of a Board shall, if he is related by blood or marriage to any member of the Board or to any person not being a lower grade employee, in receipt of remuneration from the Board, notify the fact and the nature of such relationship to the appointing authority before the appointment is made, and if he has failed to do so, his appointment shall be invalid but without prejudice to the validity of anything previously done by him.

45 of 1860.

49 of 1988.

38. Every officer or employee, permanent or temporary of a Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code and clause (c) of section 2 of the Prevention of Corruption Act, 1988.

Cantonment employee to be deemed a public servant.

Procedure

39. (1) Every Board shall meet at least once in a month to transact its business on such day as may be fixed by the President and in his absence by the Vice-President, and its notice shall be given in such manner as may be provided in the regulations made by the Board under this Chapter.

Meetings.

(2) The President may, whenever he thinks fit, and shall, upon a requisition in writing by not less than one-fourth of the members of the Board, convene a special meeting.

(3) Any meeting may be adjourned until the next or any subsequent day, and an adjourned meeting may be further adjourned in like manner.

40. Subject to any regulation made by the Board under this Chapter, any business may be transacted at any meeting:

Business to be transacted.

Provided that no business relating to the imposition, abolition or modification of any tax shall be transacted at a meeting unless notice of the same and of the date fixed therefor has been sent to each member not less than seven days before that date.

41. (1) The quorum necessary for the transaction of business at a meeting of the Board shall be one-half of the number of members of the Board holding the office:

Quorum.

Provided that if the number of members of the Board holding office at a particular time is an odd number, the quorum shall be one-half of the number obtained by adding one to the number of such members.

(2) If a quorum is not present, the President or in his absence, the Vice-President or in the absence of both, the Member-Secretary shall adjourn the meeting and the business which would have been brought before the original meeting if there had been a quorum present there at shall be brought before, and may be transacted at, an adjourned meeting, whether there is a quorum present or not.

Presiding
Officer.

42. In the absence of—

(a) both the President and the Vice-President from any meeting of a Board in which there is more than one elected member,

(b) the President from a meeting of a Board constituted under sub-section (6) of section 12 or sub-section (2) of section 13,

the members present shall elect one from among their own members to preside.

Minutes.

43. (1) The minutes of the proceedings of each meeting shall be recorded in a book and shall be signed by the person presiding over the meeting and the Chief Executive Officer, before the close of the meeting and shall, at such times and in such place as may be fixed by the Board, be open to inspection free of charge by any inhabitant of the cantonment.

(2) Copies of the minutes shall, as soon as possible after each meeting, be forwarded for information to the General Officer Commanding-in-Chief, the Command, the District Magistrate and the Defence Estate Officer and in cantonments where Navy or Air Force stations are located copies of the minutes shall be forwarded for information to the Command Headquarters of the Navy or, as the case may be, the Air Force.

Meetings to be
public.

44. Every meeting of a Board shall be open to the public unless in any case the person presiding over the meeting, for reasons to be recorded in the minutes, otherwise directs.

Method of
deciding
questions.

45. (1) All questions coming before a meeting shall be decided by the majority of the votes of the members present and voting.

(2) In the case of an equality of votes, the person presiding over the meeting, shall have a second or casting vote.

(3) The dissent of any member from any decision of the Board shall, if the member so requests, be entered in the minutes, together with a short statement of the ground for such dissent.

Civil area.

46. (1) The Central Government may, by notification in Official Gazette, declare the civil area, in a cantonment, which is inhabited largely by civil population to be the civil area for the purposes of this Act.

(2) The Central Government may in consultation with the Board undertake, as and when required and shall undertake after every census, a review of the boundaries of the civil area in each cantonment.

Committees
for civil areas.

47. (1) Every Board constituted under section 12 in a cantonment shall appoint a committee consisting of the elected members of the Board, the Health Officer and the Executive Engineer for the administration of the civil area in the cantonment as notified under section 46 of this Act and may delegate its powers and duties to such committee in the manner provided in clause (e) of sub-section (1) of section 48.

(2) The Vice-President of the Board shall be the Chairman of the committee appointed under sub-section (1).

(3) The powers, duties and functions of the Board under sub-section (1) of section 137, section 140, section 143, section 147, section 149, section 254, section 262, section 297 and section 298 shall be exercised or discharged in respect of a civil area by the civil area committee:

Provided that if the Health Officer dissents from any decision arrived at by the committee under sub-section (1) of section 137, section 140, section 143, section 147 and section 149 on health grounds, the matter may be referred to the Board by the President for decision.

48. (1) A Board may make regulations consistent with this Act and with the rules made thereunder to provide for all or any of the following matters, namely:—

Power to make regulations.

- (a) the time and place of its meetings;
- (b) the manner in which notice of the meeting shall be given;
- (c) the conduct of proceedings at meetings and the adjournments of meetings;
- (d) the custody of the common seal of the Board and the purposes for which it shall be used; and
- (e) the appointment of committees for any purpose and the determination of all matters relating to the constitution and procedure of such committees, and the delegation to such committees, subject to any conditions which the Board thinks fit to impose, of any of the powers or duties of the Board under this Act other than a power to make regulations or bye-laws.

(2) No regulation made under clause (e) of sub-section (1) shall take effect until it has been approved by the Central Government.

(3) No regulation made under this section shall take effect until it has been published in such manner as the Central Government may direct.

49. (1) A Board may —

Joint action with other local authority.

(a) join with any other local authority—

(i) in appointing a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee;

(ii) in delegation to such committee power to frame terms binding on the Board and such other local authority as to the construction and future maintenance of any joint work or to exercise any power which might be exercised by the Board or by such other local authority; and

(iii) in making regulations for regulating the proceedings of any such committee relating to the purposes for which it has been appointed; or

(b) with the previous sanction of the General Officer Commanding-in-Chief, the Command, and the State Government concerned, enter into an agreement with any other local authority regarding the levy of any tax or toll whereby the said tax or toll respectively leviable by the Board and by such other local authority may be levied together instead of separately within the limits of the area hereafter in this section referred to as the aggregate area subject to the control of the Board and such other local authority.

(2) If any difference of opinion arises between any Board and other local authority acting together under this section, the decision thereon of the Central Government or of an officer appointed by the Central Government in this behalf shall be final.

(3) When any agreement such as is referred to in clause (b) of sub-section (1) has been entered into, then —

(a) where the agreement relates to octroi or terminal tax or toll, the party to the agreement (the Board, or as the case may be, such other local authority) which is specified in this behalf in the agreement,—

(i) shall have the same powers to establish octroi limits and octroi stations and places for the collection of octroi, terminal tax and toll within the aggregate area as it has within the area ordinarily subject to its control;

(ii) shall have the same powers of collecting such octroi, terminal tax or toll in the aggregate area and the provisions of any enactment in force

relating to the levy of such octroi, terminal tax or toll by it shall apply in the same manner as if the aggregate area were comprised within the area ordinarily subject to its control;

(b) the total of the collection of such octroi, tax or toll made in the aggregate area and the costs thereby incurred shall be divided between the cantonment fund and the fund subject to the control of such other local authority, in such proportion, as may have been determined by the agreement.

Report on
administration

50. (1) Every Board shall, as soon as may be after the close of the financial year and not later than the date fixed in this behalf by the Central Government, submit to the Central Government through the General Officer Commanding-in-Chief, the Command, a report on the administration of the cantonment during the preceding financial year, in such form and containing such details as the Central Government may direct.

(2) The comments, if any, of the General Officer Commanding-in-Chief, the Command, on such report shall be communicated by him to the Board which shall be allowed a reasonable time to furnish a reply thereto, and the comments together with the reply, if any, shall be forwarded to the Central Government along with the report.

Control

Power of
Central
Government to
require
production of
documents

51. The Central Government or such officer or authority as may be authorised by the Central Government in this behalf may at any time require a Board—

(a) to produce any record, correspondence, plan or other document in its possession or under its control;

(b) to furnish any return, plan, estimate, statement, account or statistics relating to its proceedings, duties or works;

(c) to furnish or obtain and furnish any report.

Inspection

52. The Central Government or the General Officer Commanding-in-Chief, the Command or the Director General or Principal Director, may depute any person in the service of the Government to inspect or examine any department of the office of, or any service or work undertaken by, or thing belonging to, a Board, and to report thereon, and the Board and its officers and employees shall be bound to afford the person so deputed access at all reasonable times to the premises and property of the Board and to all records, accounts and other documents the inspection of which he may consider necessary to enable him to discharge his duties.

Power to call
for documents.

53. The General Officer Commanding-in-Chief, the Command or the Principal Director, may, by order in writing,—

(a) call for any book or document in the possession or under the control of the Board;

(b) require the Board to furnish such statements, accounts, reports and copies of documents relating to its proceedings, duties or works as he thinks fit.

Power to
require
execution of
work, etc

54. If, on receipt of any information or report obtained under section 51 or section 52 or section 53, the Central Government or the General Officer Commanding-in-Chief, the Command or the Director General or the Principal Director is of opinion—

(a) that any duty imposed on a Board by or under this Act has not been performed or has been performed in an imperfect, inefficient or unsuitable manner; or

(b) that adequate financial provision has not been made for the performance of any such duty,

it or he may direct the Board, within such period as it or he thinks fit, to make arrangements to its or his satisfaction for the proper performance of the duty, or as the case may be, to make financial provision to its or his satisfaction for the performance of the duty:

Provided that unless in the opinion of the Central Government the General Officer Commanding-in-Chief, the Command or the Director General or the Principal Director, as the case may be, the immediate execution of such order is necessary, it or he shall, before making any direction under this section, give the Board an opportunity of showing cause why such direction should not be made.

55. If, within the period fixed by a direction made under section 54, any action the taking of which has been directed under that section has not been duly taken, the Central Government the General Officer Commanding-in-Chief, the Command or the Director General, or the Principal Director, as the case may be, may make arrangements for the taking of such action, and may direct that all expenses connected therewith shall be defrayed out of the cantonment fund.

Power to provide for enforcement of direction under section 54.

56. (1) If the President dissents from any decision of the Board which he considers prejudicial to the health, welfare, discipline or security of the Forces in the cantonment, he may, for reasons to be recorded in the minutes, by order in writing, direct the suspension of action thereon for any period not exceeding one month and, if he does so, shall forthwith refer the matter to the General Officer Commanding-in-Chief, the Command.

Power to override decision of Board.

(2) If the District Magistrate considers any decision of a Board to be prejudicial to the public health, safety or convenience, he may, after giving notice in writing of his intention to the Board, refer the matter to the Central Government, and pending the disposal of the reference to the Central Government no action shall be taken on the decision.

(3) If any Magistrate who is a member of a Board, being present at a meeting, dissents from any decision which he considers prejudicial to the public health, safety or convenience, he may, for reasons to be recorded in the minutes and after giving notice in writing of his intention to the President, report the matter to the District Magistrate; and the President shall, on receipt of such notice, direct the suspension of action on the decision for a period sufficient to allow of a communication being made to the District Magistrate and of his taking proceedings as provided in sub-section (2).

(4) If the Chief Executive Officer considers any decision of the Board taken at a meeting, to be in contravention of the provisions of this Act, rules, regulations or bye-laws made thereunder and the general guidelines issued by the Central Government from time to time in this regard, he may, for reasons to be recorded in writing and after informing the President in this behalf, forthwith refer the matter to the Principal Director who shall if considered appropriate direct the suspension of action on the said decision for a period not exceeding one month.

(5) The Principal Director shall, for reasons to be recorded in writing on the reference made under sub-section (4), refer the matter to the General Officer Commanding-in-Chief, the Command along with recommendation on whether or not the said decision of the Board should be revoked and inform the matter to Director General Defence Estates.

57. The Central Government may, at any time, review any decision or order of the Board or the General Officer Commanding-in-Chief, the Command, and pass such orders thereon as it may deem fit;

Power of Central Government to review.

Provided that where it is proposed to modify a decision or order of the Board reasonable opportunity shall be given to the Board to show cause why the decision or order in question should not be modified.

58. (1) The General Officer Commanding-in-Chief, the Command, may at any time —

(a) direct that any matter or any specific proposal other than one which has been referred to the Central Government under sub-section (2) of section 56 be considered or reconsidered by the Board; or

Power of General Officer Commanding-in-Chief, the Command, on reference under section 56 or otherwise.

(b) direct the suspension, for such period as may be stated in the order, of action on any decision of a Board, other than a decision which has been referred to him under sub-section (1) of section 56, and thereafter cancel the suspension or after giving the Board a reasonable opportunity of showing cause why such direction should not be made, direct that the decision shall not be carried into effect or that it shall be carried into effect with such modifications as he may specify.

(2) When any decision of a Board has been referred to him under sub-sections (1) and (4) of section 56, the General Officer Commanding-in-Chief, the Command, may, by order in writing,—

(a) cancel the order given by the President directing the suspension of action;

or

(b) extend the duration of the order for such period as he thinks fit; or

(c) after giving the Board a reasonable opportunity of showing cause why such direction should not be made, direct that the decision shall not be carried into effect or that it shall be carried into effect by the Board with such modifications as he may specify.

Power of
Central
Government
on a reference
made under
section 56.

59. (1) When any decision of a Board has been referred to the Central Government under sub-section (2) of section 56, the Central Government may, after consulting the General Officer Commanding-in-Chief, the Command, by order in writing,—

(a) direct that no action be taken on the decision; or

(b) direct that the decision be carried into effect either without modification or with such modifications as it may specify.

Supersession
of Board.

60. (1) If, in the opinion of the Central Government, any Board is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act or otherwise by law, or exceeds or abuses its powers, the Central Government may by an order published, together with the statement of the reasons therefor, in the Official Gazette, declare the Board to be incompetent or in default or to have exceeded or abused its powers, as the case may be, and supersede it for such period as may be specified in the order:

Provided that no Board shall be superseded unless a reasonable opportunity has been given to it to show cause against the supersession.

(2) When a Board is superseded by an order under sub-section (1)—

(a) all members of the Board shall, on such date as may be specified in the order, vacate their offices as such members but without prejudice to their eligibility for election or nomination under clause (c);

(b) during the supersession of the Board, all powers and duties conferred and imposed upon the Board by or under this Act shall be exercised and performed by the Officer Commanding the station, or by such officer as may be authorised by the Central Government, subject to such reservation if any, as the Central Government may prescribe in this behalf; and

(c) before the expiry of the period of supersession elections shall be held and nominations made for the purpose of reconstituting the Board.

Validity of proceedings

Validity of
proceedings,
etc.

61. (1) No act or proceeding of a Board or of any committee of a Board shall be invalid by reason only of the existence of a vacancy in the Board or committee.

(2) No disqualification or defect in the election, nomination or appointment of a person acting as the President or a member of a Board or of any such committee shall vitiate any act or proceeding of the Board or committee if the majority of the persons present

at the time of the act being done or the proceeding being taken were duly qualified members thereof.

(3) Any document or minutes which purport to be the record of the proceedings of a Board or any committee of a Board shall, if made and signed substantially in the manner prescribed for the making and signing of the record of such proceedings, be presumed to be a correct record of the proceedings of a duly convened meeting, held by a duly constituted Board or committee, as the case may be, whereof all the members were duly qualified.

CHAPTER IV

DUTIES AND DISCRETIONARY FUNCTIONS OF BOARDS

62. It shall be the duty of every Board, so far as the funds at its disposal permit, to make reasonable provision within the cantonment for—

Duties of
Board.

- (i) lighting streets and other public places;
- (ii) watering streets and other public places;
- (iii) cleansing streets, public places and drains, abating nuisances and removing noxious vegetation;
- (iv) regulating offensive, dangerous or obnoxious trades, callings and practices;
- (v) removing, on the ground of public safety, health or convenience, undesirable obstructions and projections in streets and other public places;
- (vi) securing or removing dangerous buildings and places;
- (vii) acquiring, maintaining, changing and regulating places for the disposal of the dead;
- (viii) constructing, altering and maintaining streets, culverts, bridges, causeways, markets, slaughter-houses, latrines, privies, urinals, drains, drainage works and sewerage works and regulating their use;
- (ix) planting and maintaining trees on roadsides and other public places;
- (x) providing or arranging for a sufficient supply of pure and wholesome water, where such supply does not exist, guarding from pollution water used for human consumption, and preventing polluted water from being so used;
- (xi) registering births and deaths;
- (xii) preventing and checking spread of dangerous diseases; establishing and maintaining a system of public vaccination and inoculation for the said objective;
- (xiii) establishing and maintaining or supporting public hospitals, maternity and child welfare centres and dispensaries, and providing public medical relief;
- (xiv) establishing and maintaining or assisting primary schools;
- (xv) rendering assistance in extinguishing fires, and protecting light and property when fire occurs;
- (xvi) maintaining and developing the value of property vested in, or entrusted to, the management of the Board;
- (xvii) establishing and maintaining civil defence services;
- (xviii) preparing and implementing town planning schemes;
- (xix) preparing and implementing plans for economic development and social justice;
- (xx) naming and numbering of streets and premises;

(xvi) according or refusing permission to erect or re-erect building;

(xxii) organising, promoting or supporting cultural and sports activities;

(xxiii) fulfilling any other obligation imposed upon it by or under this Act or any other law for the time being in force.

Power to
manage
property.

63. A Board may, subject to any conditions imposed by the Central Government, manage any property entrusted to its management by the Central Government on such terms as to the sharing of rents and profits accruing from such property as may be determined by rule made under section 35 t.

Discretionary
functions of
Board.

64. (1) A Board may, within the cantonment, make provision for—

(i) laying out in areas, whether previously built upon or not, new streets, and acquiring land for that purpose and for the construction of buildings, and compounds of buildings, to abut on such streets;

(ii) constructing, establishing or maintaining public parks, gardens, offices, dairies, bathing or washing places, drinking fountains, tanks, wells and other works of public utility;

(iii) reclaiming unhealthy localities;

(iv) furthering educational objects by measures other than the establishment and maintenance of primary schools;

(v) setting up or supporting higher schools, colleges and vocational, professional and special education;

(vi) constructing, and maintaining works and structures, including rainwater harvesting, for providing supply of water for public and private purposes;

(vii) constituting, maintaining and managing supply and distribution of electricity, including by exploiting non-conventional energy sources, to public and private premises;

(viii) taking a census and granting rewards for information which may tend to secure the correct registration of vital statistics;

(ix) making a survey;

(x) giving relief on the occurrence of local epidemics, floods, famines or other natural calamities by the establishment or maintenance of relief work or otherwise;

(xi) securing or assisting to secure suitable places for the carrying on of any offensive dangerous or obnoxious trade, calling or occupation;

(xii) establishing and maintaining a farm or other place for the disposal of sewage;

(xiii) constructing, subsidising or guaranteeing tramways or other means of locomotion, and electric lighting or electric power work;

(xiv) establishing and maintaining cattle pounds;

(xv) arranging for civic reception with prior approval of the Officer Commanding the Station;

(xvi) providing housing accommodation for any class of inhabitants;

(xvii) celebrating Independence Day and Republic Day and incurring expenditure thereon;

(xviii) developing land resources under the management of the Board;

(xix) preparing and implementing group housing schemes;

(xx) establishing and undertaking remunerative projects;

(xxi) developing small-scale and cottage industries;

(xxii) developing expertise in different areas of urban governance and local self-government to and able to provide consultancy to other Municipal and Development Authorities;

(xxiii) adopting any measure, other than a measure specified in section 62 or in the foregoing provisions of this section likely to promote the safety, health or convenience of the inhabitants of the cantonment;

(xxiv) establishing and maintaining or supporting libraries, museums, art galleries, botanical or zoological collections;

(xxv) establishing and maintaining or supporting stadia, gymnasia, akharas and places for sports and games;

(xxvi) establishing theatres and cinemas;

(xxvii) organising and managing fairs and exhibitions;

(xxviii) constructing and maintaining:—

(a) rest-houses;

(b) poor-houses;

(c) infirmaries;

(d) children's home;

(e) houses for deaf and dumb and for disabled and handicapped children;

(f) shelters for destitute and disabled persons;

(g) asylums for persons of unsound mind;

(h) old age homes;

(i) working women's hostels;

(xxix) establishing and managing chemical or bacteriological laboratories for the examination or analysis of water, food and drugs for the detection of diseases or research connected with the public health or medical relief;

(xxx) providing relief to destitute and disabled persons;

(xxxi) establishing and maintaining veterinary hospitals;

(xxxii) constructing and maintaining warehouses and godowns;

(xxxiii) constructing and managing garages, sheds and stands for vehicles and cattle sheds;

(xxxiv) constructing and managing community halls and convention halls;

(xxxv) holding seminars, workshops, public debates, and similar activities particularly on issues and rules and regulations of civic importance.

(2) A Board may, either within or outside the cantonment, make provision for the doing of anything on which expenditure is declared by the Central Government, or by the Board with the sanction of the Central Government, to be an appropriate charge on the cantonment fund.

Power of expenditure of educational, health and other purposes outside the cantonment.

65. (1) A Board may make provision subject to availability of funds for—

- (i) educational objects in a cantonment;
- (ii) the objectives of public health and medical care;
- (iii) works relating to water-supply, drainage and lighting;
- (iv) the preservation, improvement and upgradation of environment,

outside the cantonment, if it is satisfied that the interests of the residents of the cantonment will be served thereby.

CHAPTER V

TAXES AND FEES

Imposition of taxation

General power of taxation.

66. (1) The Board shall, with the previous sanction of the Central Government, impose the following taxes for the purposes of this Act :—

- (a) property tax; and
- (b) tax on trades, professions callings and employments.

(2) In addition to the taxes specified in sub-section (1) the Board may, for the purposes of this Act, impose any tax which under any enactment for the time being in force may be imposed in any municipality in the State in which the cantonment is situated:

Provided that the Board shall revise every five years, the rates of taxes imposed under sub-sections (1) and (2) :

Provided further that the Board shall not abolish any tax imposed under this section or vary it to the Board's financial disadvantage without the prior sanction of the Central Government and the tax mentioned in sub-section (2) shall not exceed the ceiling prescribed in this behalf by clause (2) of article 276 of the Constitution.

(3) The taxes specified in sub-sections (1) and (2) shall be imposed, assessed and collected in accordance with the provisions of this Act, rules and the bye-laws made thereunder.

(4) Any tax imposed under this section shall take effect from the date of its notification in the Official Gazette or where any later date is specified in this behalf in the notification, from such later date.

Charging of fees.

67. The Board shall, for the purposes of this Act, charge the following fees, namely:—

- (a) licence fee on vehicles and animals;
- (b) licence fee on advertisements other than advertisements in newspapers;
- (c) fee relating to maintenance of property records;
- (d) processing fee on buildings payable along with application for sanction of the building plan;
- (e) licence fee on entry of vehicles;
- (f) betterment fee on the increase in land value caused by the execution of any development work; and
- (g) such other fee which the Board may by regulation specify:

Provided that the fee charged under clause (g) of this section shall not be less than the cost incurred by the Board for or in connection with the specific service to which the fee relates.

68. Save as otherwise provided in this Act, the property tax shall be levied on lands and buildings in the cantonment and shall consist of not less than ten and not more than thirty per cent of the annual rateable value of lands and buildings:

Norms of
property tax.

Provided that the Board may, when fixing the rate at which the property tax shall be levied during any year, determine that the rate leviable in respect of lands and buildings or portions of lands and buildings in which any particular class of trade or business is carried on shall be higher than the rate determined in respect of other lands and buildings or portions of other lands and buildings by an amount not exceeding one half of the rate so fixed:

Provided further that the tax may be levied on graduated scale, if the Board so determines.

Explanation.—Where any portion of a land or building is liable to a higher rate of the tax such portion shall be deemed to be a separate property for the purpose of municipal taxation alone.

69. When a resolution has been passed by the Board proposing to impose a tax under section 66, the Board shall in the manner prescribed in section 324 publish a notice specifying—

Framing of
preliminary
proposals.

(a) the tax which it is proposed to impose;

(b) the persons or classes of persons to be made liable and the description of the property or other taxable thing or circumstance in respect of which they are to be made liable; and

(c) the rate at which the tax is to be levied.

70. (1) Any inhabitant of the cantonment may, within thirty days from the publication of the notice under section 69, submit to the Board an objection in writing to all or any of the proposals contained therein and the Board shall take such objection into consideration and pass orders thereon by special resolution.

Objections and
disposal
thereof.

(2) Unless the Board decides to abandon its proposals contained in the notice published under section 69, it shall submit to the Central Government through the General Officer Commanding-in-Chief, the Command, all such proposals along with the objections, if any, received in connection therewith together with its opinion thereon and any modifications proposed in accordance with such opinion and the notice published under the said section.

71. The Central Government may authorise the Board to impose the tax either in the original form or, if any objection has been submitted, in that form or any such modified form as it thinks fit.

Imposition of
tax.

72. (1) Where the Central Government is of opinion that for securing adequate financial provision for the efficient discharge of the duties and functions of a Board it is necessary so to do, it may issue directions to the Board requiring it to impose within the cantonment area any tax which it is empowered under this Act to impose and which is not already imposed within the said area or to enhance any existing tax in such a manner or to such an extent as the Central Government considers fit and the Board shall, in accordance with the direction, forthwith impose or enhance such tax in accordance with the provisions of this Chapter:

Power of
Central
Government to
issue
directions to
the Board.

Provided that—

(a) no such directions shall be issued without giving the Board and the inhabitants of the cantonment area, an opportunity of showing cause why such directions should not be issued;

(b) the Central Government shall take into consideration any objection which the Board or any inhabitant of the cantonment area may make against the imposition or enhancement of such tax;

(c) it shall not be lawful for the Board to modify or abolish such tax when imposed or enhanced without the sanction of the Central Government.

(2) The Central Government may, at any time, cancel or modify any direction issued by it under sub-section (1) with effect from such date as may be specified in the direction and on and from the date so specified the imposition or enhancement of such tax, shall cease or be modified accordingly.

Definition
of "annual
rateable
value".

73. For the purposes of this Chapter, "annual rateable value" means—

(a) in the case of hotels, colleges, schools, hospitals, factories and any other buildings which the Chief Executive Officer decides to assess under this clause, one-twentieth of the sum obtained by adding the estimated present cost of erecting the building to the estimated value of the land appertaining thereto; and

(b) in the case of building or land not assessed under clause (a), the gross annual rent for which such building exclusive of furniture or machinery therein or such land is actually let or, where the building or land is not let or in the opinion of the Chief Executive Officer is let for a sum less than its fair letting value, might reasonably be expected to let from year to year:

Provided that, where the annual rateable value of any building is, by reason of exceptional circumstances, in the opinion of the President Cantonment Board, excessive if calculated in the aforesaid manner, the President Cantonment Board may fix the annual rateable value at any less amount which appears to him to be just.

Incidence of
taxation.

74. (1) Save as otherwise expressly provided in the notification imposing the tax, every tax assessed on the annual rateable value of buildings or lands or of both shall be leviable primarily upon the actual occupier of the property upon which the said tax is assessed, if he is the owner of the buildings or land or holds them on a building or other lease granted by or on behalf of the Government or the Board or on a building lease from any person.

(2) In any other case, the tax shall be primarily leviable as follows, namely :—

(a) if the property is let, upon the lessor;

(b) if the property is sub-let, upon the superior lessor;

(c) if the property is unlet, upon the person in whom the right to let the same vests.

(3) The liability of the several owners of any building which is, or purports to be, severally owned in parts or flats or rooms or separate tenements for the payment of such tax or any instalment thereof payable during the period of such ownership shall be joint and several.

(4) On failure to recover any sum due on account of such tax from the person primarily liable, these may be recovered from the occupier of any part of the buildings or lands in respect of which the tax is due such portion of the sum due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said buildings or lands, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment list.

(5) An occupier who makes any payment for which he is not primarily liable under this section shall, in the absence of any contract to the contrary, be entitled to be reimbursed by the person primarily liable for the payment, and, if so entitled, may deduct the amount so paid from the amount of any rent from time to time becoming due from him to such person.

Assessment list

75. When a tax assessed on the annual rateable value of buildings or lands or both is imposed, the Chief Executive Officer shall cause an assessment list of all buildings or lands in the cantonment, or of both, as the case may be, to be prepared in such form and in such manner as the Central Government may by rule prescribe.

Assessment
list.

76. (1) The Chief Executive Officer shall, at the same time, give public notice of a date, not less than one month thereafter, when he shall proceed to consider the valuation and assessments entered in the assessment list, and, in all cases in which any property is for the first time assessed or the assessment is increased shall also give written notice thereof to the owner and to any lessee or occupier of the property.

Revision of
assessment
list.

(2) Any objection to a valuation or assessment shall be made in writing to the Chief Executive Officer before the date fixed in the notice, and shall state in what respect the valuation or assessment is disputed, and all objections so made shall be recorded in a register to be kept for the purpose by the Chief Executive Officer.

(3) The objections shall be inquired into and investigated, and the persons making them shall be allowed an opportunity of being heard either in person or by authorised agent by the Chief Executive Officer.

77. (1) When all objections made under section 76 have been disposed of, and the revision of the valuation and assessment has been completed, the assessment list shall be authenticated by the signatures of the Chief Executive Officer and the President Cantonment Board, who shall, certify that except in the cases if any, in which amendments have been made as shown therein no valid objection has been made to the annual rateable value or any other matters entered in the said list:

Authentication
of assessment
list.

Provided that whenever the General Officer Commanding-in-Chief or Principal Director or Director Command comes to the conclusion that the assessment lists or any entries therein have not been correctly prepared and are prejudicial to the interests of the Board or of the Central Government, they may *suo moto* re-open the said assessment and issue such directions as deemed fit.

(2) The assessment list so authenticated shall be deposited in the office of the Board, and shall there be open, free of charge, during office hours to all owners lessees and occupiers of property comprised therein or the authorised agents of such persons, and a public notice that it is so open shall forthwith be published.

78. Subject to such alterations as may thereafter be made in the assessment list under the provisions of this Chapter and to the result of any appeal made thereunder, the entries in the assessment list authenticated and deposited as provided in section 77 shall be accepted as conclusive evidence—

Evidential
value of
assessment
list.

(a) for the purposes of assessing any tax imposed under this Act, of the annual rateable value or other valuation of all buildings and lands to which such entries respectively refer; and

(b) for the purposes of any tax imposed on buildings or lands, of the amount of each such tax leviable thereon during the year to which such list relates.

79. (1) The Chief Executive Officer may after obtaining the approval of President Cantonment Board amend the assessment list at any time—

Amendment of
assessment
list.

(a) by inserting or omitting the name of any person whose name ought to have been or ought to be inserted or omitted; or

(b) by inserting or omitting any property which ought to have been or ought to be inserted or omitted; or

(c) by altering the assessment on any property which has been erroneously valued or assessed through fraud, accident or mistake whether on the part of administration or assessee; or

(d) by revaluing or re-assessing any property the value of which has been increased; or

(e) in the case of a tax payable by an occupier, by changing the name of the occupier:

Provided that no person shall by reason of any such amendment become liable to pay any tax or increase of tax in respect of any period prior to the commencement of the year in which the assessment is made.

(2) Before making any amendment under sub-section (1) the Chief Executive Officer shall give to any person affected by the amendment, notice of not less than one month that he proposes to make the amendment.

(3) Any person interested in any such amendment may tender an objection to the Chief Executive Officer in writing before the time fixed in the notice, and shall be allowed an opportunity of being heard in support of the same in person or by authorised agent.

Preparation of
new
assessment
list.

80. The Chief Executive Officer shall prepare a new assessment list at least once in every three years, and for this purpose the provisions of sections 75 to 79 shall apply in like manner as they apply for the purpose of the preparation of an assessment list for the first time.

Notice of
transfers.

81. (1) Whenever the title of any person primarily liable for the payment of a tax on the annual rateable value of any building or land to or over such building or land is transferred, the person whose title is transferred and the person to whom the same is transferred shall, within three months after the execution of the instrument of transfer or after its registration, if it is registered, or after the transfer is effected, if no instrument is executed, give notice of such transfer to the Chief Executive Officer.

(2) In the event of the death of any person primarily liable as aforesaid, the person on whom the title of the deceased devolves shall give notice of such devolution to the Chief Executive Officer within six months from the death of the deceased.

(3) The notice to be given under this section shall be in such form as may be determined by rules made under section 351, and the transferee or other person on whom the title devolves shall, if so required, be bound to produce before the Chief Executive Officer any documents evidencing the transfer or devolution.

(4) Every person who makes a transfer as aforesaid without giving such notice to the Chief Executive Officer shall continue liable for the payment of all taxes assessed on the property transferred until he gives notice or until the transfer has been recorded in the registers of the Board, but nothing in this section shall be held to affect the liability of the transferee for the payment of the said tax.

(5) The Chief Executive Officer shall record every transfer or devolution of title notified to him under sub-section (1) or sub-section (2) in the assessment list and other tax registers of the Board.

(6) Any failure to comply with the provisions contained in sub-sections (1) to (3) shall be punishable with fine which may extend to ten thousand rupees.

Notice of
erection of
buildings.

82. (1) If any building is erected or re-erected within the meaning of section 235, the owner shall give notice thereof to the Chief Executive Officer within thirty days from the date of its completion or occupation, whichever is earlier.

(2) Any person failing to give the notice required by sub-section (1) shall be punishable with fine which may extend to five thousand or ten times the amount of the tax payable on the said building, as erected or re-erected, as the case may be, in respect of a period of three months, whichever is greater.

Remission and refund

83. If any building is wholly or partly demolished or destroyed or otherwise deprived of value, the Board may, on the application in writing of the owner or occupier, remit or refund such portion of any tax assessed on the annual rateable value thereof as it thinks fit but no remission or refund shall take effect in respect of any period commencing more than two months before the delivery of such application.

Demolition,
etc., buildings.

84. In a cantonment when any building or land has remained vacant and unproductive of rent for sixty or more consecutive days the Chief Executive Officer shall remit or refund, as the case may be, one-half of such portion of any tax assessed on the annual rateable value thereof as may be proportionate to the number of days during which the said building or land has remained vacant and unproductive of rent:

Remission of
tax.

Provided that in any cantonment which the Central Government, by notification in the Official Gazette, has declared to be a hill cantonment and in respect of which the Central Government by the same or a like notification has declared a portion of the year to be the season for the cantonment—

(a) when any building or land is leased for occupation through the season only, but the rent charged is the full annual rent, no remission or refund shall be admissible under this section in respect of any time outside the season during which the building or land remains vacant;

(b) when such building or land has remained vacant and unproductive of rent, in respect of any time, not being less than sixty consecutive days during which within the season, the Chief Executive Officer shall remit or refund one-half of such portion of any tax assessed on the annual rateable value thereof as bears to the whole of the tax so assessed the same proportion as the number of days during which the building or land has remained vacant and unproductive of rent bears to the total length of the season.

85. (1) For the purpose of obtaining a partial remission or refund of tax, the owner of a building composed of separate tenements may request the Chief Executive Officer at the time of the assessment of the building, to enter in the assessment list, in addition to the annual rateable value of the whole building, a note recording in detail the annual rateable value of each separate tenement.

Power to
require entry
in assessment
list of details
of buildings.

(2) When any tenement, the annual value of which has been thus separately recorded, has remained vacant and unproductive of rent for sixty or more consecutive days one half of such portion of any tax assessed on the annual rateable value of the whole building shall be remitted or refunded as would have been remitted or refunded if the tenement had been separately assessed.

86. No remission or refund under section 84 or section 85 shall be made unless notice in writing of the fact that the building, land or tenement has become vacant and unproductive of rent, has been given to the Chief Executive Officer and no remission or refund shall take effect in respect of any period commencing more than fifteen days before the delivery of such notice.

Notice to be
given of the
circumstances
in which
remission or
refund is
claimed.

87. (1) For the purposes of sections 84 and 85 no building, tenement or land shall be deemed vacant if maintained as a resort or town or country house or be deemed unproductive of rent if let to a tenant who has a continuing right of occupation thereof, whether he is in actual occupation or not.

What
buildings, etc.,
are to be
deemed
vacant.

(2) The burden of proving all facts entitling any person to claim relief under section 83 or section 84 or section 85 shall be upon him

Notice to be given of every occupation of vacant building or house.

88. (1) The owner of any building, tenement or land in respect of which a remission or refund of tax has been given under section 84 or section 85 shall give notice of the re-occupation of such building tenement or land within fifteen days of such re-occupation.

(2) Any owner failing to give the notice required by sub-section (1) shall be punishable with fine which shall not be less than twice the amount of the tax payable on such building, tenement or land in respect of the period during which it has been re-occupied and which may extend to two thousand five hundred rupees, or to ten times the amount of the said tax, whichever sum is greater.

Charge on immovable property

Tax on buildings and land to be a charge thereon.

89. A tax assessed on the annual rateable value of any building or land shall, subject to the prior payment of the land-revenue, if any, due to the Government thereon, be a first charge upon the building or land.

Octroi, terminal tax and toll

Inspection of imported goods, octroi, terminal tax and toll, etc.

90. Every person bringing or receiving any goods, vehicles or animals within the limits of any cantonment in which octroi or terminal tax or toll is leviable shall, when so required by an officer duly authorised by the Chief Executive Officer in this behalf, so far as may be necessary for ascertaining the amount of tax chargeable—

(a) permit that officer to inspect, examine or weigh such goods, vehicles or animals; and

(b) communicate to that officer any information, and exhibit to him any bill, invoice or document of a like nature, which such person may possess relating to such goods, vehicles or animals.

Power to seize etc.

91. (1) Any person who takes or attempts to take past any octroi station or any other place appointed within a cantonment for the collection of octroi, terminal tax or toll any goods, vehicles or animals, on account of which octroi, terminal tax or toll is leviable and thereby evades, or attempts to evade, the payment of such octroi, terminal tax or toll and any person who abets any such evasion or attempt at evasion, shall be punishable with fine which may extend either to ten times the value of such octroi, terminal tax or toll, or to two thousand five hundred rupees, whichever is greater, and which shall not be less than twice the value of such octroi, terminal tax or toll, as the case may be.

(2) In case of non-payment of any octroi or terminal tax or toll on demand, the officer empowered to collect the same may seize any goods, vehicles or animals on which the octroi, terminal tax or toll is chargeable or any part or number thereof which is of sufficient value to satisfy the demand and shall give a receipt specifying the items seized.

(3) The Chief Executive Officer, or an officer of the Board authorised by him, after the lapse of five days from the seizure, and after the issue of a notice in writing to the person in whose possession the goods, vehicles or animals were at the time of seizure, fixing the time and place of sale, may cause the property so seized, or so much thereof as may be necessary, to be sold by auction to satisfy the demand and meet expenses occasioned by the seizure, custody and safe thereof, unless the demand and expenses are in the meantime paid:

Provided that the Chief Executive Officer may, in any case, order that any article of a perishable nature which cannot be kept for five days without serious risk of damage, or which cannot be kept safe at a cost which, together with the amount of octroi, terminal tax or toll, is likely to exceed its value, shall be sold after the lapse of such shorter times as he may, having regard to the nature of the article, think proper.

(4) If, at any time before the sale has begun, the person whose property has been seized tenders to the Chief Executive Officer the amount of all expenses incurred and of the octroi, terminal tax or toll, the Chief Executive Officer shall release the property seized.

(5) The surplus, if any, of the sale proceeds shall be credited to the cantonment fund, and shall, on application made to the Chief Executive Officer within six months after the sale, be paid to the person in whose possession the property was at the time of seizure, and, if no such application is made, shall become the property of the Board.

92. It shall be lawful for the Chief Executive Officer, with the previous sanction of the President Cantonment Board to lease the collection of any octroi, terminal tax or toll for any period not exceeding one year; and the lessee and all persons employed by him in the management and collection of the octroi, terminal tax or toll shall, in respect thereof,—

Lease of
octroi,
terminal tax or
toll.

(a) be bound by any orders made by the Chief Executive Officer for their guidance;

(b) have such powers exercisable by officers or employees of the Board under this Act as the Board may confer upon them; and

(c) be entitled to the same remedies and be subject to the same responsibilities as if they were employed by the Board for the management and collection of the octroi, terminal tax or toll, as the case may be:

Provided that no article distrained may be sold except under the orders of the Chief Executive Officer.

Appeals

93. (1) An appeal against the assessment or levy of, or against the refusal to refund, any tax under this Act shall lie to the District Court.

Appeals
against
assessment.

(2) If the District Court, on the hearing of an appeal under this section, entertains reasonable doubt on any question as to the liability to, or the principle of assessment of, a tax, the Court may, either on its own motion or on the application of the appellant, draw up statement of the facts of the case and the point on which doubt is entertained, and refer the statement with its opinion on the point for the decision of the High Court.

(3) On a reference being made under sub-section (2), the subsequent proceedings in the case shall be, as nearly as may be, in conformity with the rules relating to references to the High Court contained in order XLVI of the First Schedule to the Code of Civil Procedure, 1908.

5 of 1908.

Explanation.— For the purposes of this section and sections 94, 95, 96, 97 and 102, “District Court”, in relation to a cantonment, means the Principal Civil Court of original jurisdiction having jurisdiction over the area in which that cantonment is situated, and includes such other Civil Court having jurisdiction over that area as the Central Government may, by notification in the Official Gazette, specify in this behalf, in consultation with the High Court having jurisdiction over that area.

94. In every appeal the costs shall be in the discretion of the District Court hearing the appeal.

Costs of
appeal.

95. (1) If the Board fails to pay any cost awarded to an appellant within ten days after the date of the order for payment thereof, the District Court awarding the costs may order the person having the custody of the balance of the cantonment fund to pay the amount.

Recovery of
costs from
Board.

(2) Where the appellant fails to pay any costs awarded to the Board within ten days after the date of the order for payment thereof, the same shall be recoverable by the Board in the same manner as moneys recoverable by the Board under section 329.

Conditions of
right to appeal.

96. No appeal shall be heard or determined under this Chapter unless—

(a) the appeal is, in the case of a tax assessed on the annual rateable value of buildings or lands or both, brought within thirty days next after the date of the authentication of the assessment list under section 77 (exclusive of the time required for obtaining a copy of the relevant entries therein), or, as the case may be, within thirty days of the date on which an amendment is finally made under section 79 and in the case of any other tax, within thirty days next after the date of the receipt of the notice of assessment or of alteration of assessment or, if no notice has been given, within thirty days next after the date of the presentation of the first bill in respect thereof:

Provided that an appeal may be admitted after the expiration of the period prescribed therefor by this section if the appellant satisfies the District Court before whom the appeal is preferred that he had sufficient cause for not preferring it within that period;

(b) the amount including the assessed tax or duty, if any, in dispute in the appeal shall be deposited by the appellant every year on or before the due date in the office of the Board till the appeal is determined by the District Court.

Finality of
appellate
orders

97. The order of a District Court confirming, setting aside or modifying an order in respect of any valuation or assessment or liability to assessment or taxation shall be final:

Provided that it shall be lawful for the District Court, upon application or on its own motion, to review any order passed by it in appeal if application in this behalf is made within three months from the date of the original order.

Payment and recovery of taxes

Time and
manner of
payment of
taxes.

98. Save as otherwise expressly provided under this Act, any tax imposed under the provisions of this Act shall be payable on such dates and in such manner, as the Chief Executive Officer may, by public notice, direct.

Public notice
for taxes due.

99. (1) When any tax has become due the Chief Executive Officer shall cause a public notice to be issued specifying the tax and the period for which it is due for payment.

(2) The tax shall become due for payment from the date of issue of public notice under sub-section (1) above.

(3) It shall not be necessary to present a separate bill to the person liable for payment thereof unless the tax is assessed for the first time or it is enhanced or modified under the provisions of this Act.

Notice of
demand.

100. (1) If the amount of tax for which public notice has been issued or a bill has been presented is not paid within thirty days from the issue of public notice or presentation of the bill, as the case may be, the Chief Executive Officer may cause to be served upon the person liable for the payment of the same a notice of demand in the form set forth in Schedule I.

(2) For every notice of demand which the Chief Executive Officer causes to be served on any person under this section, a fee of such amount, not exceeding two hundred rupees as shall in each case be fixed by the Chief Executive Officer, shall be payable by the said person and shall be included in the costs of recovery.

Recovery of
tax.

101. (1) If the person liable for the payment of any tax does not, within thirty days from the service of the notice of demand, pay the amount due, or show sufficient cause for non-payment of the same to the satisfaction of the Chief Executive Officer, such sum, with all costs of recovery, may be recovered under a warrant, issued in the form set forth in Schedule II, by distress and sale of the movable property or attachment and sale of the immovable property of the defaulter:

Provided that the Chief Executive Officer shall not recover any sum the liability for which has been remitted on appeal under this Chapter:

Provided further that the sale of any immovable property attached under this subsection shall not be made save under the orders of the Board.

(2) Every warrant issued under this section shall be signed by the Chief Executive Officer.

102. (1) If a person on whom a notice of demand has been served under section 100, does not, within thirty days from the service of such notice, pay the sum demanded in the notice, he shall be liable to pay by way of interest, in addition to the sum and other charges due one per cent., of the sum due for each complete month from the date of expiry of the period of thirty days as aforesaid.

Interest payable on taxes due.

(2) The amount of interest shall be recoverable in the same manner as moneys recoverable by the Board under section 329:

Provided that—

(a) where no appeal has been preferred, the Chief Executive officer with the previous sanction of the Board; and

(b) in any other case, the District Court hearing the appeal under section 93, may remit the whole or any part of the interest payable in respect of any period.

103. (1) It shall be lawful for any official of the Board to whom a warrant issued under section 101 is addressed to distrain, wherever it may be found in the cantonment, any movable property of or standing timber, growing crops or grass belonging to the person therein named as defaulter, subject to the following conditions, exceptions and exemption, namely:—

Distress.

(a) the following property shall not be distrained —

(i) the necessary wearing apparel and bedding of the defaulter or of his wife or of his children;

(ii) tools of artisans;

(iii) books of account; or

(iv) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood;

(b) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any property has been distrained which, in the opinion of the Chief Executive Officer, should not have been distrained, it shall forthwith be returned.

(2) The person charged with the execution of a warrant of distress shall forthwith make an inventory of the property which he seizes under such warrant, and shall, at the same time, give a written notice in the form in Schedule III to the person in possession thereof at the time of seizure that the said property will be sold as therein mentioned.

104. (1) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody is, when added to the amount to be recovered, likely to exceed its value, the Chief Executive Officer shall give notice to the person in whose possession the property was at the time of seizure that it will be sold at once, and shall sell it accordingly by public auction unless the amount mentioned in the warrant is forthwith paid.

Disposal of distrained property.

(2) If the warrant is not in the meantime suspended by the Chief Executive Officer, or discharged, the property seized shall, after the expiry of the period named in the notice served under sub-section (2) of section 103, be sold by public auction by order of the Chief Executive Officer.

(3) The surplus of the sale proceeds, if any, shall forthwith be credited to the cantonment fund, and notice of such credit shall be given at the same time to the person whose property has been sold or his legal representative and, if the same is claimed by written application to the Chief Executive Officer within one year from the date of the notice, a refund thereof shall be made to such person or representative and any surplus not claimed within one year as aforesaid shall be the property of the Board.

(4) For every distraint made under this Chapter a fee of such amount, not exceeding two hundred rupees, as shall in each case be fixed by the Chief Executive Officer shall be charged, and the said fee shall be included in the costs of recovery.

Attachment
and sale of
immovable
property.

105. (1) When a warrant is issued for the attachment and sale of immovable property, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge, and declaring that such property would be sold unless the amount of tax due with all costs of recovery is paid in the office of the Board within fifteen days from the date of attachment.

(2) An order under sub-section (1) shall be displayed at some place on or adjacent to such property by pasting the same conspicuously and by publishing the same in a newspaper having circulation in the area in which the property is situated or by any other means or mode as may be considered appropriate by the Chief Executive Officer.

(3) Any transfer of or charge on the property attached or any interest thereon made without the written permission of the Chief Executive Officer shall be void as against all claims of the Board enforceable under the attachment.

(4) Where the sum due to the Board with the cost incurred by the Board in the sale of the property, including publication of notice in newspaper and a sum equal to five per cent. of the purchase money for payment to the purchaser is paid by the defaulter, before the confirmation of the sale under sub-section (5), the attachment, if any, of the immovable property shall be deemed to have been removed.

(5) After the sale of the property by auction as aforesaid, it shall be confirmed in writing by the Chief Executive Officer who shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(6) The Central Government may make rules for—

(a) regulating the manner of execution of warrants for the attachment and sale of immovable property;

(b) charging of fees for the attachment and sale of immovable property, to be included in the cost of recovery of the tax due;

(c) summary determination of any claim made by any person other than the person liable for the payment of any tax, in respect of any property attached in execution of warrant under this section.

Recovery from
a person about
to leave
cantonment.

106. (1) If the Chief Executive Officer has reason to believe that any person from whom any sum is due or is about to become due on account of any tax is about to move from the cantonment, he may direct the immediate payment by such person of the sum so due or about to become due, and cause a notice of demand for the same to be served on such person.

(2) If, on the service of such notice, such person does not forthwith pay the sum so due or about to become due, the amount shall be leviable by distress and sale of movable property or attachment and sale of immovable property in the manner hereinbefore provided in this Chapter, and the warrant of such distress and sale or attachment and sale may be issued and executed without any delay.

107. Instead of proceeding against a defaulter by distress and sale of movable property or attachment and sale of immovable property as hereinbefore provided in this Chapter, or after a defaulter has been so proceeded against unsuccessfully or with only partial success, any sum due or the balance of any sum due, as the case may be, from such defaulter on account of a tax may be recovered from him by a suit in any court of competent jurisdiction.

Special provisions relating to taxation, etc.

108. A Board shall be deemed to be a municipal committee for the purposes of—

- (a) taxation as per the Municipal Taxation Act, 1881,
- (b) receiving grants,
- (c) executing the Central or the State Government schemes of social welfare, public health, hygiene, safety, water supply, sanitation and education.

109. The Central or the State Government, as the case may be, shall pay to a Board annually service charges for providing collective municipal services or development work in a cantonment where the Central or the State Government properties are situated as worked out by the Board based on the guidelines issued in this behalf by the Central Government or the State Government.

110. A Board may make special provisions for the cleansing of any factory, hotel, club or group of buildings or lands used for any one purpose and under one management, and may fix a special rate and the dates and other conditions for periodical payment thereof, which shall be determined by a written agreement with the person liable for payment of the conservancy or scavenging tax in respect of such factory, hotel, club or group of buildings or lands:

Provided that, in fixing the amount, proper regard shall be had to the probable cost to the Board of the services to be rendered.

111. (1) When in pursuance of section 110, a Board has fixed a special rate for the cleansing of any factory, hotel, club or group of buildings or lands, such premises shall be exempted from the payment of conservancy or scavenging tax imposed in the cantonment.

(2) The following buildings and lands shall be exempt from any property tax other than tax imposed to cover the cost of specific services rendered by the Board, namely:—

- (a) places set apart for public worship and either actually so used or used for no other purpose and rendering services free of cost without deriving any income whatsoever;
- (b) buildings used for educational purposes, public libraries, play grounds and dharamshalas which are open to the public and from which no income is derived;
- (c) hospitals and dispensaries maintained wholly by charitable contributions;
- (d) burning and burial grounds, not being the property of the Government or a Board, which are controlled under the provisions of this Act;
- (e) buildings or lands vested in a Board; and
- (f) any buildings or lands, or portion of such buildings or lands, which are the property of the Government.

Power to institute suit for recovery.

Every Board to be a Municipality for certain purposes.

Payment to be made to a Board as service charges by Central Government or State Government.

Power to make special provision for conservancy in certain cases.

Exemption in case of buildings.

General Power
of exemption.

112. The Central Government may, by notification in the Official Gazette, exempt, either wholly or in part from the payment of any tax imposed under this Act, any person, or class of persons or any property or goods or class of property or goods.

Exemption of
poor persons.

113. A Board may exempt, for a period not exceeding one year at a time from the payment of any tax, or any portion of a tax imposed under this Act, any person who in its opinion is by reason of poverty unable to pay the same.

Composition.

114. (1) The Chief Executive Officer may, with the previous sanction of the General Commanding Officer-in-Chief, the Command, allow any person to compound for any tax.

(2) Every sum due by reason of the composition of a tax under sub-section (1) shall be recoverable as if it were a tax.

Irrecoverable
debts.

115. The Chief Executive Officer may write off any sum due on account of any tax or rate or of the costs of recovering any tax or rate if such sum is, in its opinion, irrecoverable:

Provided that, where the sum written off in favour of any one person exceeds two thousand and five hundred rupees, the sanction of the President of Cantonment Board shall be first obtained.

Obligation to
disclose
liability.

116. (1) The Chief Executive Officer, may, by written notice, call upon any inhabitant of the cantonment to furnish such information as may be necessary for the purpose of ascertaining—

(a) whether such inhabitant is liable to pay, or has correctly paid, any tax imposed under this Act;

(b) at what amount he should be assessed; or

(c) the annual value of the building or land which he occupies and the name and address of the owner or lessee thereof.

(2) If any person, when called upon under sub-section (1) to furnish information, neglects to furnish it within the period specified in this behalf by the Chief Executive Officer or furnishes information which is not true to the best of his knowledge or belief, he shall be punishable with fine which may extend to five thousand rupees and shall also be liable to be assessed at such amount on account of tax as the Chief Executive Officer may deem proper, and the assessment so made shall, subject to the provisions of this Act, be final.

Immaterial
error not to
affect liability.

117. No assessment and no charge or demand on account of any tax or fee shall be impeached or affected by reason only of any mistake in the name of any person liable to pay such tax or fee, or in the description of any property or thing, or any mistake in the amount of the assessment, charge or demand, if the directions contained in this Act and the rules and bye-laws made thereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such mistake shall be entitled to recover compensation for the same by suit in a court of competent jurisdiction.

Distrait not to
be invalid by
reason of
immaterial
defect.

118. No distress levied or attachment made under this Chapter shall be deemed unlawful, nor shall any person making the same be deemed a trespasser, on account only of any defect of form in the notice of demand, warrant of distress or attachment and sale or other proceeding relating thereto; nor shall any such person be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but any person who sustains any special damage by reason of any such irregularity shall be entitled to recover compensation for the same by suit in a court of competent jurisdiction.

CHAPTER VI

CANTONMENT FUND AND PROPERTY

Cantonment fund and cantonment development fund

119. (1) There shall be formed for every cantonment a cantonment fund and there shall be placed to the credit thereof the following sums, namely:—

Cantonment
fund and
cantonment
development
fund.

2 of 1924.

(a) the balance if any, of the cantonment fund formed for the cantonment under the Cantonments Act, 1924;

(b) all sums received by or on behalf of the Board.

(2) There shall also be formed for every cantonment, a cantonment development fund and there shall be placed to the credit, thereof the following sums, namely:—

(i) any sum received from the Central Government or the Government of any State by way of contributions, grants, subsidies or by any other way for the implementation of any specific scheme or for the execution of any specific project;

(ii) any sum received by any individual or association of individuals by way of gift or deposit; and

(iii) any sum raised or borrowed under section 121 for the execution of specific development projects.

120. (1) The cantonment fund and the cantonment development fund shall be kept in separate accounts which shall be maintained in State Bank of India or any of its subsidiary banks or any nationalised bank or any scheduled commercial bank having its branch either in the cantonment or in the municipal area adjoining the cantonment.

Custody of
Cantonment
Fund and
Cantonment
Development
Fund.

Explanation.—In this section,—

(i) "nationalised bank" means corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980;

(ii) "State Bank of India" means the State Bank of India constituted under the State Bank of India Act, 1955;

(iii) "subsidiary bank" means a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959.

5 of 1970.

40 of 1980.

23 of 1955.

38 of 1959.

(2) The Chief Executive Officer may with the previous sanction of the President Cantonment Board may invest any portion of cantonment fund or cantonment development fund in securities of Central Government or in such securities, including fixed deposits in banks in the best interest of the Board and may dispose of such investments or vary them for others of a like nature.

(3) The income resulting from any fixed deposit or from any such securities as is referred to in sub-section (2) or from the proceeds of the sale of any such security shall be credited to the cantonment fund or, as the case may be, the cantonment development fund.

(4) Every action taken under sub-sections (2) and (3) may be subsequently brought to the next meeting of the Board.

121. A Board may from time to time by a resolution passed in this behalf borrow money from another Board any sum of money which may be required for the schemes or projects covered under this Act.

Power of
Board to
borrow money.

Property

Property

122. Subject to any special reservation made by the Central Government all property of the nature hereinafter in this section specified which has been acquired or provided or is maintained by a Board shall vest in and belong to that Board, and shall be under its direction, management and control, that is to say,—

(a) all markets, slaughter-houses, manure and night-soil depots, and buildings of every description;

(b) all water-works for the supply, storage or distribution of water for public purposes and all bridges, buildings, engines, materials, and things connected therewith or appertaining thereto;

(c) all sewers, drains, culverts and water-courses, and all works, materials and things appertaining thereto;

(d) all dust, dirt, dung, ashes, refuse, animal matter, filth and rubbish of every kind, and dead bodies of animals collected by the Board from the streets, houses, privies, sewers, cesspools or elsewhere, or deposited in places appointed by the Board for such purposes;

(e) all lamps and lamp-posts and apparatus connected therewith or appertaining thereto;

(f) all lands or other property transferred to the Board by the Central or a State Government, or by gift, purchase or otherwise for local public purposes; and

(g) all streets and the pavements, stones and other materials thereof, and also all trees, erections, materials, implements, and things existing on or appertaining to streets.

Application
of cantonment
fund, canton-
ment develop-
ment fund and
property.

123. The cantonment fund, cantonment development fund and all property vested in a Board shall be applied for the purposes, whether express or implied, for which, by or under this Act or any other law for the time being in force, powers are conferred or duties or obligations are imposed upon the Board :

Provided that the Board shall not incur any expenditure for acquiring or renting land beyond the limits of the cantonment or for constructing any work beyond such limits except—

(a) with the sanction of the Central Government, and

(b) on such terms and conditions as the Central Government may impose:

Provided further that priority shall be given in the order hereinafter set forth to the following liabilities and obligations of a Board, that is to say,—

(a) to the liabilities and obligations arising from a trust legally imposed upon or accepted by the Board;

(b) to the repayment of, and the payment of interest on, any loan incurred under the provisions of the Local Authorities Loan Act, 1914 or under the provisions of this Act. 9 of 1914.

(c) to the payment of establishment charges;

(d) to the payment of any sum the payment of which is expressly required by the provisions of this Act or any rule or bye-law made thereunder.

Acquisition of
immovable
property

124. When there is any hindrance to the permanent or temporary acquisition upon payment of any land required by a Board for the purposes of this Act, the Central Government may, on the recommendation of the Board, procure the acquisition thereof under the provisions of the Land Acquisition Act, 1894, and, on payment by the Board of the compensation 1 of 1894.

awarded under that Act and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the Board.

125. The Central Government may make rules consistent with this Act to provide for all or any of the following matters, namely:—

(a) the conditions on which property may be acquired by Boards or on which property vested in a Board may be transferred by sale, mortgage, lease, exchange or otherwise; and

(b) any other matter relating to the cantonment fund or cantonment development fund or cantonment property, in respect of which no provision or insufficient provision is made by or under this Act and provision is, in the opinion of the Central Government necessary.

Power to make rules regarding cantonment fund, cantonment development fund and property.

CHAPTER VII

CONTRACTS

126. Subject to the provisions of this Chapter, every Board shall be competent to enter into and perform any contract necessary for the purposes of this Act.

Contracts by whom to be executed.

127. (1) Every contract —

Sanction.

(a) for which budget provision does not exist, or

(b) which involves a value or amount exceeding rupees fifty thousand shall require the sanction of the Board.

(2) Every contract other than a contract such as is referred to in sub-section (1) shall be sanctioned by the Chief Executive Officer on behalf of the Board.

128. Every contract made by or on behalf of a Board, the value or amount of which exceeds fifty thousand rupees, shall be in writing, and every such contract shall, be signed by two members, of whom the President or the Vice-President shall be one, and be countersigned by the Chief Executive Officer and be sealed with the common seal of the Board.

Execution of contract.

129. If any contract is executed by or on behalf of a Board, otherwise than in conformity with the provisions of this Chapter, it shall not be binding on the Board.

Contracts improperly executed not to be binding on a Board.

CHAPTER VIII

SANITATION AND THE PREVENTION AND TREATMENT OF DISEASE

Sanitary authorities

130. The following officers shall, for the purposes of sanitation, have control over, and be responsible for maintaining in a sanitary condition, those parts of a cantonment, respectively, which are specified in the case of each, that is to say :—

Responsibility for sanitation.

(a) the Officer Commanding the army in the cantonment—all buildings and lands which are occupied or used for army purposes;

(b) the Officer Commanding the navy in the cantonment—all buildings and lands which are occupied or used for naval purposes;

(c) the Officer Commanding the air force in the cantonment—all buildings and lands which are occupied or used for air force purposes;

(d) the Officer Commanding the station in the cantonment—all buildings and lands, occupied or used for any defence purpose, other than those referred to in clauses (a), (b) and (c);

(e) the head of any civil department or railway administration occupying as such any part of the cantonment—all buildings and lands in his charge as head of that department or administration;

(f) the head of any establishment or installation of the Defence Research and Development Organisation in the cantonment — buildings and lands which are occupied or used for the purposes of the Defence Research and Development Organisation in the cantonment;

(g) the head of a Public Sector Undertaking — the buildings and lands belonging to such undertaking in the cantonment;

(h) the Chief Executive Officer — the buildings and lands in the civil area of the cantonment and all other buildings and lands not covered in clauses (a) to (g) above.

General duties
of Health
Officer.

131. (1) The Health Officer shall be the Advisor to the Board in all matters relating to sanitation and exercise a general sanitary supervision over the cantonment and shall periodically submit a report along with his recommendations at least once in every month to the Board.

(2) The Assistant Health Officer shall perform such duties in connection with the sanitation of the cantonment as are, subject to the control of the Board, allotted to him by the Health Officer.

Conservancy and sanitation

Public latrines,
urinals and
conservancy
establishments.

132. All public latrines and urinals provided or maintained by a Board shall be so constructed as to provide separate compartments for each sex and not to be a nuisance, and shall be provided with all necessary conservancy establishments, and shall regularly be cleansed and kept in proper order.

Duty of
occupier to
collect and
deposit
rubbish, etc.

133. (1) It shall be the duty of an occupier of a building or land—

(a) to make adequate arrangements for the house scavenging of the building or land;

(b) to provide receptacles of the type and in the manner prescribed by the Chief Executive Officer for the collection therein of all filth, rubbish and other offensive matter from such building or land and to keep such receptacle in good condition and repair;

(c) to cause all filth, rubbish and other offensive matter collected in receptacles and to be removed and deposited in the public receptacles, depots or places provided or appointed under sub-section (1) of section 135.

(2) For the purpose of this section and section 134, "house scavenging" means the removal of filth, rubbish or other offensive matter from a privy, latrine, urinal, drain, cesspool or other common receptacle for such matter.

Power of
Board to
undertake
private
conservancy
arrangement.

134. (1) On the application or with the consent of the occupier of any building or land, or, where the occupier of any building or land fails to make arrangements to the satisfaction of the Chief Executive Officer for the matters referred to in this section, without such consent, and after giving notice in writing to the occupier, the Chief Executive Officer may undertake the house scavenging of any building or land in the cantonment for such period as he thinks fit on such terms as he may specify in this behalf.

(2) Where the Chief Executive Officer has undertaken the duties referred to in this section, all matter removed in the performance of such duties shall be the property of the Board.

135. (1) Every Board shall provide or appoint, in proper and convenient situations, public receptacles, depots or places for the temporary deposit or disposal of household rubbish, offensive matter, carcases of dead animals and sewage.

Deposits and disposal of rubbish, etc.

(2) The Chief Executive Officer may, by public notice, issue directions as to the time at which, the manner in which, and the conditions subject to which, any matter referred to in sub-section (1) may be removed along a street or may be deposited or otherwise disposed of.

(3) All matter deposited in receptacles, depots or places provided or appointed under this section shall be the property of the Board.

136. The Chief Executive Officer of any cantonment may, by notice in writing—

Cesspools, receptacles, for filth, etc.

(a) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

(i) to close any cesspool appertaining to the land or building which, in the opinion of the Chief Executive Officer, is a nuisance, or

(ii) to keep in a clean condition, in such manner as may be prescribed by notice, any receptacle for filth or sewage accumulating on the land or in a building, or

(iii) to prevent the water of any private latrine, urinal, sink or bathroom or any other offensive matter, from soaking, draining or flowing, or being put, from the land or building upon any street or other public place, or into any water-course or into any drain not intended for the purpose, or

(iv) to collect and deposit for removal by the conservancy establishment of the Board, within such time and in such receptacle or place, as may be specified in the notice, any offensive matter or rubbish which such person has allowed to accumulate or remain under, in or on such building or land; or

(b) require any person to desist from making or altering any drain leading into a public drain; or

(c) require any person having the control of a drain in the cantonment to cleanse, purify, repair or alter the same, or otherwise put it in good order, within such time as may be specified in the notice.

137. (1) Where any well, tank, cistern, reservoir container, desert cooler or any other receptacle or place in the cantonment where water is stored or accumulated, whether within any private enclosure or not, is in such a condition as to create a nuisance or, in the opinion of the Health Officer, is or is likely to be a breeding place for mosquitoes, the Board may, by notice in writing, require the owner, lessee or occupier thereof within such period as may be specified in the notice, to fill up or cover the well, cistern, reservoir or receptacle, or to fill up the tank, or to drain off or remove the water, as the case may be.

Filling up of tank, etc.

(2) The Board may from time to time take such measures as are necessary in its opinion for prevention of breeding of mosquitoes, insects or any bacterial or viral carriers of disease in public places under the control or management of the Board.

(3) The Board may, if it thinks fit, meet the whole or any portion of the expenses incurred in execution of work mentioned in sub-sections (1) and (2) of this section.

138. The Chief Executive Officer may, by notice in writing, require the owner or lessee of any building or land in the cantonment to provide, in such manner as may be specified in the notice, any latrine, urinal, cesspool, dust-bin or other receptacle for filth, sewage, or rubbish, or any additional latrine, urinal, cesspool or other receptacle as aforesaid, which should, in his opinion, be provided for the building or land.

Provision of latrines, etc.

Sanitation in
factories, etc

139. Every person employing, whether on behalf of the Government or otherwise, more than ten workmen or labourers, and every person managing or having control of a market, school, theatre or other place of public resort, in a cantonment shall give notice of the fact to the Chief Executive Officer, and shall provide such latrines and urinals, and shall employ such number of sweepers, as the Chief Executive Officer thinks fit, and shall cause the latrines and urinals to be kept clean and in proper order :

Provided that nothing in this section shall apply in the case of a factory to which the Factories Act, 1948 applies.

63 of 1948.

Private
latrines

140. Subject to the provisions of the Employment of Manual Scavenger and Construction of Dry Latrine (Prohibition) Act, 1993, the Chief Executive Officer or any official of the Board authorised by him may, by notice in writing,—

46 of 1993.

(a) require the owner or other person having the control of any private latrine, or, urinal in the cantonment not to put the same to public use; or

(b) where any plan for the construction of private latrines or urinals has been approved, and copies thereof may be obtained free of charge on application—

(i) require any person repairing or constructing any private latrine or urinal not to allow the same to be used until it has been inspected by an official of the Board authorised by the Chief Executive Officer, or under the direction of the Health Officer and approved by him as conforming with such plan; or

(ii) require any person having control of any private latrine or urinal to re-build or alter the same in accordance with such plan; or

(c) require the owner or other person having the control of any such private latrine or urinal which, in the opinion of the Chief Executive Officer, constitutes a nuisance, to remove the latrine or urinal; or

(d) require any person having the control whether as owner, lessee or occupier of any land or building in the cantonment—

(i) to have any latrines provided for the same shut out by a sufficient roof and wall or fence from the view of persons passing by or dwelling in the neighborhood, or

(ii) to cleanse in such manner as the Chief Executive Officer may specify in the notice any latrine or urinal belonging to the land or building;

(e) require any person being the owner and having the control of any drain in the cantonment to provide, within ten days from the service of the notice, such covering as may be specified in the notice.

Special
provisions for
collection of
rubbish and
solid waste
management.

141.(1) All solid waste material generated in a cantonment shall be removed by the Board and be brought to the compost sites or sanitary land sites or trenching sites earmarked by it for the purpose.

(2) The Board shall also devise schemes for collecting rubbish and garbage from each house in the cantonment and may, if considers necessary, associate residents' welfare associations or such other non governmental organisation for this purpose.

(3) As far as possible the Board shall devise appropriate system to ensure that all compostable or bio-degradable waste in the cantonment is recycled and used for generating manure, bio-gas or any other form of energy.

Removal of
congested
buildings

142.(1) Where it appears to a Board that any block of buildings in the cantonment is in an unhealthy condition by reason of the manner in which the buildings are crowded together, or of the narrowness or closeness of the street, or of the want of proper drainage or ventilation, or of the impracticability of cleansing the buildings or other similar cause, it may cause the block to be inspected by a committee consisting of—

- (a) the Health Officer,
- (b) the Civil Surgeon of the district or, if his services are not available, some other medical officer in the service of the Government.
- (c) the Executive Engineer or a person deputed by the Executive Engineer in this behalf, and
- (d) two non-official members of the Board.

(2) The committee shall make a report in writing to the Board regarding the sanitary condition of the block, and, if it considers that the condition thereof is likely to cause risk of disease to the inhabitants of the building or of the neighbourhood or otherwise to endanger the public health, it shall clearly indicate on a plan verified by the Executive Engineer or the person deputed by him to serve on the committee, the buildings which should in its opinion wholly or in part be removed in order to abate the unhealthy condition of the block.

(3) If, upon receipt of such report, the Board is of opinion that all or any buildings indicated should be removed, it may, by notice in writing, require the owners thereof to remove them:

Provided that the Board shall make compensation as it thinks fit to the owners for any buildings so removed which have been erected under proper authority:

Provided further that the Board may if it considers it equitable in the circumstances so to do pay to the owners such sum as it thinks fit as compensation for any buildings so removed which have not been erected under proper authority.

(4) For the purposes of this section "buildings" includes enclosure, walls and fences appertaining to buildings.

143. (1) Where it appears to a Board that any building or part of a building in the cantonment which is used as a dwelling house is so overcrowded as to endanger the health of the inmates thereof, it may, after such inquiry as it thinks fit, by notice in writing require the owner or occupier of the building or part thereof, as the case may be, within such time not being less than one month as may be specified in the notice, to abate the overcrowding of the same by reducing the number of lodgers, tenants, or other inmates to such number as may be specified in the notice.

Overcrowding of dwelling houses.

(2) Any person who fails, without reasonable cause, to comply with a requisition made upon him under sub-section (1) shall be punishable with fine which may extend to two thousand five hundred rupees, and, in the case of a continuing offence, to an additional fine which may extend to two hundred fifty rupees for every day after the first during which the failure has continued.

144. (1) Where any building in a cantonment is so ill-constructed or dilapidated as to be, in the opinion of the Board, in an insanitary state, the Board may, by notice in writing, require the owner, within such time as may be specified in the notice, to execute such repairs or to make such alterations as it thinks necessary for the purpose of removing such defects.

Power to require repair or alteration of building.

(2) A copy of every notice issued under sub-section (1) shall be conspicuously pasted on the building to which it relates.

(3) A notice issued under sub-section (1) shall be deemed to have been complied with, if the owner of the building to which it relates has, instead of executing the repairs or making the alterations directed by the notice, removed the building.

145. (1) If any building or land, whether tenantable or otherwise, is—

- (i) in an insanitary, filthy or unwholesome state; or

Power to require land or building to be cleansed.

(ii) in the opinion of the Chief Executive Officer, a nuisance to persons residing in the neighbourhood; or

(iii) overgrown with prickly-pear or rank and noisome vegetation the Chief Executive Officer may, by notice in writing, require the owner, lessee or occupier of such building or land to clean, lime-wash internally or externally, clear, or otherwise put such building or land in a proper state within such period as may be specified in the notice.

(2) Any person who fails to comply with the notice issued under sub-section (1) shall be punishable with fine which may extend to five thousand rupees, and, in the case of a continuing offence, with an additional fine which may extend to two hundred fifty rupees for each day after the first during which the offence continues.

Prohibition in respect of air pollutant.

146. No owner, occupier, lessee or any other occupant of the premises shall allow or cause to be allowed any air pollutant above the standards, laid down under clause (g) of sub-section (1) of section 17 of the Air (Prevention and Control of Pollution) Act, 1981.

14 of 1981.

Power to order disuse of house.

147. If a Board is satisfied that any building or part of a building in the cantonment which is intended for or used as a dwelling place is unfit for human habitation, it may cause a notice to be pasted on some conspicuous part of the building prohibiting the owner or occupier thereof from using the building or room for human habitation, or allowing it to be so used, until it has been rendered fit for such use to the satisfaction of the Board.

Removal of noxious vegetation.

148. The Chief Executive Officer may, by notice in writing, require the owner, lessee, or occupier of any land in the cantonment to clear away and remove any thick or noxious vegetation or undergrowth which appears to him to be injurious to health or offensive to persons residing in the neighbourhood.

Agriculture and irrigation.

149. Where, in the opinion of a Board, the cultivation in the cantonment of any description of crop or the use therein of any kind of manure or the irrigation of any land therein in any specified manner is likely to be injurious to the health of persons dwelling in the neighbourhood, the Board may, by public notice, prohibit such cultivation, use or irrigation after such date as may be specified in the notice, or may, by a like notice, direct that it shall be carried out subject to such conditions as the Board thinks fit:

Provided that if, when a notice is issued under this section, any land to which it relates has been lawfully prepared for cultivation or any crop is sown therein or is standing thereon, the Board shall, if it directs that the notice is to take effect on a date earlier than that by which the crop would ordinarily be sown or reaped, as the case may be, make compensation to all persons interested in the land or crop for the loss, if any, incurred by them respectively by reason of compliance with the notice.

Burial and burning grounds

Power to call for information regarding burial and burning grounds.

150. The Chief Executive Officer may, by notice in writing, require the owner or person in-charge of any burial or burning ground in the cantonment to supply such information as may be specified in the notice concerning the condition, management or position of such ground.

Permission for use of new burial or burning ground.

151. (1) No place in a cantonment which has not been used as a burial or burning ground before the commencement of this Act shall be so used without the permission in writing of the Board.

(2) Such permission may be granted subject to any conditions which the Board thinks fit to impose for the purpose of preventing annoyance to, or danger to the health of, persons residing in the neighbourhood.

152. (1) Where a Board, after making or causing to be made local inquiry, is of opinion that any burial or burning ground in the cantonment has become offensive to, or dangerous to the health of, persons living in the neighbourhood, it may, with the previous sanction of the Central Government by notice in writing, require the owner or person in charge of such ground to close the same from such date as may be specified in the notice.

Power to require closing of burial or burning ground.

(2) Where the Central Government sanctions the issue of any notice under sub-section (1) it shall declare the conditions on which the burial or burning ground may be re-opened, and a copy of such declaration shall be annexed to the notice.

(3) Where the Central Government sanctions the issues of any such notice, it shall require a new burial or burning ground to be provided at the expense of the cantonment fund, or, if the community concerned is willing to provide a new burial or burning ground, the Central Government shall require a grant to be made from the cantonment fund towards the cost of the same.

(4) No corpse shall be buried or burnt in any burial or burning ground in respect of which a notice issued under this section is for the time being in force.

153. The provisions of sections 150, 151 and 152 shall not apply in the case of any burial ground which is for the time being managed by or on behalf of the Government.

Exemption from operation of sections 150 to 152.

154. The Board may, by public notice, prescribe routes in the cantonment by which alone corpses may be removed to burial or burning grounds.

Removal of corpses.

Prevention of infectious, contagious or communicable diseases

155. (1) Any person being in charge of, or in attendance, whether as a medical practitioner or otherwise, upon any person in a cantonment whom he knows or has reason to believe to be suffering from a contagious, communicable or infectious disease, or being the owner, lessee or occupier of any building in a cantonment in which he knows that any person is so suffering, shall forthwith give information to the Board respecting the existence of such disease.

Obligation concerning infectious, contagious or communicable diseases.

(2) No person shall—

(a) knowing that he is suffering from a contagious, communicable or an infectious disease, expose other persons to the risk of infection by his presence or conduct in any public street or public place;

(b) having the care of a person whom he knows to be suffering from a contagious, communicable or an infectious disease cause or permit that person to expose other persons to the risk of infection by his presence or conduct in any such street or place as aforesaid;

(c) place or cause to be placed in a dustbin or other receptacle for the deposit of rubbish any matter which he knows or has reason to believe to have been exposed to infection from a contagious, communicable or an infectious disease and which has not been disinfected properly;

(d) throw or cause to be thrown into any latrine or urinal any matter which he knows or has reason to believe to have been exposed to infection from a contagious, communicable or an infectious disease and which has not been disinfected properly.

(3) Nothing contained in sub-section (1) or sub-section (2) shall apply in the case of venereal disease where the person suffering therefrom is under specific and adequate medical treatment and is by reason of his habits and conditions of life and residence unlikely to spread the disease.

(4) Whoever—

(a) fails to give information or gives false information to the Board respecting the existence of such disease as is referred to in sub-section (1), or

(b) contravenes the provisions of sub-section (2), shall be punishable with fine which may extend to one thousand rupees:

Provided that no person shall be punishable for failure to give information if he had reasonable cause to believe that the information had already been duly given.

Blood bank.

156. Subject to the provisions of any Act made in this regard and the rules and regulations made thereunder, whoever, being in charge of a blood bank or any other establishment which collects or supplies blood, plasma, marrow or any other substance for transfusion or treatment of patients or for any other medical use, fails to take adequate precautions or exercise adequate supervision thereby leading to or resulting in the supply of infected or contaminated blood, plasma, marrow or any other substance, shall be punishable with imprisonment which may extend to five years or with fine which may extend to one lakh rupees or with both.

Special measures in case of outbreak of infectious or epidemic diseases.

157. (1) In the event of a cantonment being visited or threatened by an outbreak of any infectious or contagious disease among the inhabitants thereof or of any epidemic disease among any animals therein, the Officer Commanding the Station, if he thinks that the provisions of this Act or of any law for the time being in force in the cantonment are insufficient for the purpose, may, with the previous sanction of the Central Government —

(a) take such special measures, and

(b) by public notice, make such temporary regulations to be observed by the public or by any class or section of the public, as he thinks necessary to prevent the outbreak or the spread of the disease:

Provided that where in the opinion of the Officer Commanding the Station, immediate measures are necessary, he may take action without such sanction as aforesaid and, if he does so, shall forthwith report such action to the Central Government.

(2) Whoever commits a breach of any temporary regulation made under sub-section (1) shall be deemed to have committed an offence under section 188 of the Indian Penal Code.

45 of 1860.

Power to require names of dairyman's customers.

158. Where it is certified to the Chief Executive Officer by a medical practitioner that the outbreak or spread of any infectious or contagious disease in the cantonment is, in the opinion of such medical practitioner, attributable to the milk supplied by any dairyman, the Chief Executive Officer may, by notice in writing, require the dairyman, within such time as may be specified in the notice, to furnish him with a full and complete list of the names and addresses of all his customers within the cantonment, or to give him such information as will enable him to trace the persons to whom the dairyman has sold milk.

Power to require names of a washerman's customers.

159. Where it is certified to the Chief Executive Officer by the Health Officer that it is desirable, with a view to prevent the spread of any infectious or contagious disease in the cantonment, that the Health Officer should be furnished with a list of the customers of any washerman, the Chief Executive Officer may, by notice in writing, require the washerman, within a time to be specified in the notice, to furnish the Health Officer with a full and complete list of the names and addresses of all owners within the cantonment of clothes and other articles which the washerman washes or has washed during the six weeks immediately preceding the date of the notice.

Explanation.—For the purposes of this section, the expression “washerman” shall mean an individual, body corporate, association of persons engaged in washing clothes in an cantonment.

160. Where it is certified to the Chief Executive Officer by the Health Officer or a doctor in the employment of the Board that there is apprehension of the outbreak or spreading of any infectious or contagious or communicable disease in the cantonment because of use of contaminated needles, syringes or any other such equipment by a medical practitioner or by any paramedical worker, the Chief Executive Officer may, by notice in writing, require the medical practitioner or the paramedical worker, within such time as may be specified in the notice, to furnish him with a full and complete list of the names and addresses of all his customers or patients within the cantonment, or to give him such information as will enable him to trace the persons whom the medical practitioner or the paramedical worker has attended to or treated in the six weeks preceding the date of issuing the notice.

Power to require names of patients or customers of a medical practitioner or paramedical workers.

161. Where, after inspection the Health Officer is of opinion that any infectious, contagious or communicable disease is caused or is likely to arise in the cantonment from the consumption of the milk supplied from a dairy or from the washing of clothes or other articles in any place, or from any process employed by a washerman, or from use of contaminated needles, syringes or other such equipment by a medical practitioner or any para medical staff, he shall report the matter to the Chief Executive Officer.

Report after inspection of dairy or washerman or medical practitioner's place of business.

162. Upon receipt of a report submitted by the Health Officer under section 161, the Chief Executive Officer may, by notice in writing,—

Action on report submitted by Health Officer.

(a) prohibit the supply of milk from the dairy until the notice has been withdrawn; or

(b) prohibit the washerman from washing clothes or other articles in any such place or by any such process as aforesaid until the notice has been withdrawn or unless he uses such place in such manner, or washes by process, as the Chief Executive Officer may direct in the notice; or

(c) prohibit the medical practitioner or the paramedical worker from using any such needles, syringes or other such equipment unless the notice is withdrawn or rectification as may be required in the notice is carried out.

163. The Health Officer or a doctor in the employment of the Board may take possession of any milk, clothes or other articles which are or have recently been in the possession of any dairyman on whom a notice has been served under section 158, or of any clothes or other articles which are or have recently been in the possession of any washerman, on whom a notice has been served under section 159, or any needles, syringes or such other equipment which are or have recently been in the possession of the medical practitioner or paramedical worker to whom a notice under section 160 has been issued and may subject the same or cause the same to be subjected to such chemical or other process as he may think necessary; and the Board shall pay from the cantonment fund all the costs of the process and shall also pay to the owner of the milk, clothes or other articles such sum as compensation for any loss occasioned by such process as may appear to it to be reasonable.

Examination of milk, washed clothes or needles, syringes, etc.

164. Whoever in a cantonment—

Contamination of public conveyance.

(a) uses a public conveyance while suffering from an infectious or contagious disease, or

(b) uses a public conveyance for the carriage of a person who is suffering from any such disease, or

(c) uses a public conveyance for the carriage of the corpse of a person who has died from any such disease,

shall be bound to take proper precautions against the communication of the disease to other persons using or who may thereafter use the conveyance and to notify such use to the

owner, driver or person incharge of the conveyance, and further to report without delay to the Chief Executive Officer the number of the conveyance and the name of the person so notified.

Disinfection of public conveyance.

165. (1) Where any person suffering from, or the corpse of any person who has died from, an infectious, communicable or contagious disease has been carried in a public conveyance which ordinarily plies in a cantonment, the driver thereof shall forthwith report the fact to the Chief Executive Officer who shall forthwith cause the conveyance to be disinfected if that has not already been done.

(2) No such conveyance shall be brought again into use until the Chief Executive Officer has granted a certificate stating that it can be used without causing risk of infection.

Penalty for failure to report.

166. Whoever fails to make to the Chief Executive Officer any report which he is required to make by section 164 or section 165 shall be punishable with fine which may extend to five thousand rupees.

Driver of conveyance not bound to carry person suffering from infectious or contagious disease.

167. Notwithstanding anything contained in any law for the time being in force, no owner, driver or person incharge of a public conveyance shall be bound to convey or to allow to be conveyed in such conveyance in or in the vicinity of a cantonment any person suffering from an infectious or contagious disease or the corpse of any person who has died from such disease unless and until such person pays or tenders a sum fixed by the Chief Executive Officer from time to time, to cover any loss and expense which would ordinarily be incurred in disinfecting the conveyance.

Disinfection of building or articles therein

168. Where a Board is, upon the advice of the Health Officer, of opinion that the cleansing and disinfection of any building or part of a building in the cantonment or of any articles in any such building or part which are likely to retain infection, or the renewal of the flooring of any such building or part of such building, would tend to prevent or check the spread of any infectious or contagious disease, the Board may by notice in writing, require the owner or occupier to cleanse and disinfect, the said building, part or articles, as the case may be, or to renew the said flooring, within such time as may be specified in the notice:

Provided that where, in the opinion of the Board the owner or occupier is from poverty or any other cause unable effectually to carry out any such requisition, the Board may, at the expense of the cantonment fund, cleanse and disinfect the building, part or articles, or as the case may be, renew the flooring.

Destruction of infectious hut or shed.

169. (1) Where the destruction of any hut or shed in a cantonment is, in the opinion of the Board, necessary to prevent the spread of any infectious or contagious disease, the Board may, by notice in writing, require the owner to destroy the hut or shed and the materials thereof within such time as may be specified in the notice.

(2) Where the President of a Board is satisfied that the destruction of any hut or shed in the cantonment is immediately necessary for the purpose of preventing the spread of any infectious or contagious disease, he may order the owner or occupier of the hut or shed to destroy the same forthwith, or may himself cause it to be destroyed after giving not less than two hours' notice to the owner or occupier thereof.

(3) The Board shall pay compensation to the owner of any hut or shed destroyed under this section.

Temporary shelter for inmates of disinfected or destroyed building or shed

170. The Board shall provide free of charge temporary shelter or house accommodation for the members of any family in which an infectious or contagious disease has appeared who have been compelled to leave their dwelling by reason of any proceedings taken under section 168 or section 169, and who desire such shelter or accommodation as aforesaid to be provided for them.

171. (1) Where in a cantonment any building or part of a building is intended to be let, in which any person has, within six weeks immediately preceding, been suffering from an infectious or contagious disease, the person letting the building or part shall before doing so disinfect the same in such manner as the Chief Executive Officer may, by public or special notice, direct, together with all articles therein liable to retain infection.

Disinfection of building before letting the same.

(2) For the purposes of this section, the keeper of a hotel, lodging house or sarai shall be deemed to let to any person who is admitted as a guest therein that part of the building in which such person is permitted to reside.

172. No person shall, without previous disinfection of the same, give, lend, sell, transmit or otherwise dispose of to another person any article or thing which he knows or has reason to believe has been exposed to contamination by any infectious or contagious disease and is likely to be used in, or taken into, a cantonment.

Disposal of infected article without disinfection.

173. (1) Every Board shall—

Means of disinfection.

(a) provide proper places with necessary attendants and apparatus for the disinfection of conveyances, clothing, bedding or other articles which have been exposed to infection;

(b) cause conveyances, clothing or other articles brought for disinfection to be disinfected either free of charge or on payment of such charges as the Chief Executive Officer may fix.

(2) The Chief Executive Officer may notify places at which articles of clothing, bedding, conveyances or other articles which have been exposed to infection shall be washed, and, if it does so, no person shall wash any such thing at any place not so notified without having previously disinfected such thing.

(3) The Chief Executive Officer may direct the destruction of any clothing, bedding or other article in the cantonment likely to retain infection, and may give such compensation as he thinks fit for any article so destroyed.

174. Whoever, while suffering from, or in circumstances in which he is likely to spread, any infectious or contagious disease,—

Making or selling of food, etc., or washing clothes by infected person.

(a) makes, carries or offers for sale in a cantonment or takes any part in the business of making, carrying or offering for sale therein any article of food or drink or any medicine or drug for human consumption, or any article of clothing or bedding for personal use or wear, or

(b) takes any part in the business of the washing or carrying of clothes,

shall be punishable with fine which may extend to five thousand rupees.

175. When a cantonment is visited or threatened by an outbreak of any infectious or contagious disease, the Chief Executive Officer on behalf of the Board may, by public notice, restrict in such manner or prohibit for such period, as may be specified in the notice, the sale or preparation of any article of food or drink for human consumption specified in the notice or the sale of any flesh of any description of animals so specified.

Power to restrict or prohibit sale of food or drink.

176. (1) If the Chief Executive Officer on the advice given by the Health Officer is of opinion that the water in any well, tank or other place is likely, if used for drinking, to endanger, or cause the spread of, any disease, it may,—

Control over wells, tanks, etc.

(a) by public notice, prohibit the removal or use of such water for drinking;

(b) by notice in writing, require the owner or person having control of such well, tank or place to take such steps as may be directed by the notice to prevent the public from having access to or using such water; or

(c) take such other steps as it may consider expedient to prevent the outbreak or spread of any such disease.

(2) In the event of a cantonment or any part of a cantonment being visited or threatened by an outbreak of any infectious or contagious disease, the Health Officer or any person authorised by him in this behalf may, without notice and at any time, inspect and disinfect any well, tank or other place from which water is, or is likely to be, taken for the purposes of drinking, and may further take such steps as he thinks fit to ensure the purity of the water or to prevent the use of the same for drinking purposes.

Disposal of infectious corpse.

177. Where any person has died in a cantonment from any infectious or contagious disease, the Chief Executive Officer, may, by notice in writing,—

(a) require any person having charge of the corpse to convey the same to a mortuary, thereafter to be disposed of in accordance with law; or

(b) prohibit the removal of the corpse from the place where death occurred except for the purpose of being buried or burned or of being conveyed to a mortuary.

Hospitals and dispensaries

Maintenance or aiding of hospitals or dispensaries.

178. (1) A Board may—

(a) provide and maintain either within or without the cantonment as many hospitals and dispensaries as it thinks fit; or

(b) make, upon such terms as it thinks fit to impose, a grant-in-aid to any hospital or dispensary or veterinary hospital, whether within or without the cantonment, not maintained by it.

(2) Every hospital or dispensary maintained or aided under sub-section (1) shall have attached to it a ward or wards for the treatment of persons suffering from infectious or contagious diseases.

(3) The Medical Officer appointed by the Board shall be incharge of every Hospital and dispensary maintained or aided under this section and be responsible to the Health Officer for medical activities and to the Chief Executive Officer for over all administrative activities of the hospital.

Medical supplies, appliances, etc.

179. (1) Every hospital or dispensary maintained or aided under section 178 shall be maintained in accordance with any general or special orders of the Central Government for the conduct of hospitals and dispensaries or in accordance with the said orders modified in such manner as the Central Government may think fit.

(2) The Board shall cause every such hospital or dispensary to be provided with all requisite drugs, instruments, apparatus, furniture and appliances and with sufficient cots, bedding and clothing for in-patients.

Free patients.

180. At every hospital or dispensary maintained or aided under section 178, the sick poor of the cantonment, and other inhabitants of the cantonment suffering from infectious, communicable or contagious disease, and, with the sanction of the Board, any other sick persons, may receive medical or surgical treatment free of cost, and, if treated as in-patients, shall be either dieted gratuitously or, if the medical officer in charge so directs, shall be granted subsistence allowance on such scale as the Board may fix.

Paying patients.

181. Any sick person who is ineligible to receive medical or surgical treatment free of cost in any hospital or dispensary under section 180 may be admitted for treatment therein upon such terms as the Board thinks fit.

Power to order person to attend hospital or dispensary.

182. (1) If the Health Officer or the Medical Officer incharge of a hospital or dispensary maintained or aided under section 178 has reason to believe that any person living in the cantonment is suffering from an infectious, communicable or contagious disease, he

may, by notice in writing, call upon such person to attend for examination at any such hospital or dispensary at such time as may be specified in the notice and not to quit it without the permission of the Medical Officer incharge; and, on the arrival of such person at the hospital or dispensary, the Medical Officer incharge thereof may examine him for the purpose of satisfying himself whether or not such person is suffering from an infectious, communicable or contagious disease:

Provided that, if, having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, the Health Officer or Medical Officer, as the case may be, considers that the attendance of such person at a hospital or dispensary is likely to prove unnecessary or inexpedient, he shall examine such person at such person's own residence.

(2) If any person on examination under sub-section (1), is found to be suffering from an infectious or contagious disease, the Health Officer or Medical Officer, as the case may be, may cause him to be detained in hospital until he is free from the infection or contagion:

Provided that, if having regard to the nature of the disease or the condition of the person suffering therefrom, or the general environment and circumstances of such person, he considers that the detention of such person at a hospital or dispensary is unnecessary or inexpedient, he shall discharge such person and take such measures or give such directions in the matter as he thinks necessary.

183. (1) If the Health Officer or the Medical Officer incharge of a hospital or dispensary maintained or aided under section 178 reports in writing to the Officer Commanding the station that any person having received a notice under section 182 has refused or omitted to attend at the hospital or dispensary, specified in the notice, or that such person, having attended the hospital or dispensary, has quitted it without the permission of such medical officer, or that any person has failed to comply with any direction given to him under section 182, the Officer Commanding the station may, by order in writing, direct such person to be removed from the cantonment within twenty-four hours and not to re-enter it without his permission in writing.

Power to exclude from cantonment persons refusing to attend hospital or dispensary.

(2) No person who has under sub-section (1) been ordered to be removed from and not to re-enter a cantonment shall enter any other cantonment without the written permission of the Officer Commanding the station.

Control of traffic for hygienic purposes

184. (1) A Board may provide or prescribe suitable routes for the use of persons passing through the cantonment—

Routes for pilgrims and others.

(a) on their way to or from fairs or places of pilgrimage or other places of public resort; or

(b) during times when an infectious or contagious disease is prevalent, and may, by public notice, require such persons as aforesaid to use such routes and no others.

(2) All routes provided or prescribed under sub-section (1) shall be clearly and sufficiently indicated by the Board.

Special conditions regarding essential services

185. (1) No person employed in any service, or being employed in connection with the working of any system of public conservancy or sanitation or water supply or hospitals or dispensaries or electric supply or public transport services or such other essential services under a Board in any cantonment area, shall, in the absence of any contract, resign without reasonable cause or absent himself from duty without proper authority and in case of such resignation or absence from duty he shall be punishable with imprisonment which may extend to one month.

Conditions of service of safaikaramcharis and others.

(2) The Central Government may, by notification in the Official Gazette, direct that on and from such date as may be specified in the notification, the provisions of this section shall apply in the case of any specified class of employees employed by a Board whose functions intimately concern the public health or safety.

CHAPTER IX

WATER-SUPPLY, DRAINAGE AND SEWAGE COLLECTION

Water-supply

Maintenance of
water-supply:

186. (1) In every cantonment where a sufficient supply of potable water for domestic use does not exist, the Board shall provide or arrange for the provision of such a supply.

(2) The Board shall, as far as possible, make adequate provision that such supply shall be continuous throughout the year, and that the water shall be at all times fit for human consumption.

(3) It shall be the duty of every Board to practise and propagate the scientific methods of water harvesting including harvesting of rain water for use and make arrangement for recharging the sources of ground water including underground aquifers and to preserve rivers, streams, springs and other natural sources of water within and in the vicinity of the cantonment.

Terms of
water-supply

187. In this Chapter, unless the context otherwise requires, the following words and expression in relation to water supply shall have the respective meanings given below, namely :—

(1) “communication pipe” means :—

(a) where the premises supplied with water abut on the part of the street in which the main is laid, and the service pipe enters those premises otherwise than through the outer wall of a building abutting on the street and has a stopcock placed in those premises and as near to the boundary of that street as is reasonably practicable, so much of the service pipe as lies between the main and that stopcock;

(b) in any other case, so much of the service pipe as lies between the main and the boundary of the street in which the main is laid, and includes the ferrule at the junction of the service pipe with the main, and also,—

(i) where the communication pipe ends at in a stopcock, that stopcock, and

(ii) any stopcock fitted on the communication pipe between the end thereof and the main.

(2) “main” means a pipe laid by the Board for the purpose of giving a general supply of water as distinct from a supply to individual consumers and includes any apparatus used in connection with such a pipe.

(3) “service pipe” means so much of any pipe for supplying water from a main to any premises as is subject to water pressure from that main, or would be so subject but for the closing of some tap.

(4) “supply pipe” means so much of any service pipe as is not a communication pipe.

(5) “trunk main” means a main constructed for the purpose of conveying water from a source of supply to a filter or reservoir or from one filter or reservoir to another filter or reservoir, or for the purpose of conveying water in bulk from one part of the limits of supply to another part of those limits, or for the purpose of giving or taking a supply of water in bulk.

(6) “water fittings” includes pipes (other than mains), taps, cocks, valves, fer-

rules, meters, cisterns, baths and other similar apparatus used in connection with the supply and use of water.

188. (1) The Board may, when so required,—

Board to carry out survey and formulate proposals.

(a) carry out a survey of the existing consumption of and demand for water supplies in cantonment and of the water resources in or likely to be made available in the cantonment;

(b) prepare an estimate of the future water supply requirements of the cantonment;

(c) carry out a survey of the existing quantity of sewage collection;

(d) formulate proposals as to —

(i) the existing or future water supply requirements of the cantonment;

(ii) the existing or future sewage collection requirement in cantonment including proposals for the manner in which and the place or places at which sewage should be carried, collected and treated.

(2) If the Board is of the opinion that the works and other properties for the time being vested in the Board, are inadequate for the purpose of sufficient supply of water or for the purpose of efficient collection of sewage under this Act it may take steps in accordance with the provisions of this Act for the construction of additional works, whether within cantonment or outside the cantonment with the approval of the Principal Director and for the acquisition of additional properties for such works.

189. (1) The Board may, with the previous sanction of the Central Government, by public notice, declare any lake, stream, spring, well, tank, reservoir or other source, whether within or without the limits of the cantonment other than a source of water-supply under the control and in use of the Military Engineer Services or the Public Works Department from which water is or may be made available for the use of the public in the cantonment to be source of public water-supply.

Control over sources of public water-supply.

(2) Every such source shall be under the control of the Board and it shall be the duty of the Board to preserve and maintain such source.

190. The Chief Executive Officer may, by notice in writing, require the owner or any person having the control of any source of public water-supply which is used for drinking purposes—

Power to require maintenance or closing of private source of public drinking water-supply.

(a) to keep the same in good order and to clear it from time to time of silt, refuse and decaying vegetation; or

(b) to protect the same from contamination in such manner as the Chief Executive Officer may direct; or

(c) if the water therein is proved to the satisfaction of the Chief Executive Officer to be unfit for drinking purposes, to take such measures as may be specified in the notice to prevent the public from having access to or using such water:

Provided that, in the case of a well, such person as aforesaid may, instead of complying with the notice, signify in writing his desire to be relieved of all responsibility for the proper maintenance of the well and his readiness to place it under the control and supervision of the Board for the use of the public, and, if he does so, he shall not be bound to carry out the requisition, and the Board shall undertake the control and supervision of the well.

191. (1) Subject to the guidelines made by the Board in this regard, the Chief Executive Officer may permit the owner, lessee or occupier of any building or land to connect the building or land with a source of public water-supply by means of communica-

Supply of water.

tion pipes of such size and description as may be specified for the purpose of obtaining water for domestic use.

(2) The occupier of every building so connected with the water-supply shall be entitled to have for domestic use, in return for the water tax, if any, such quantity of water as the Chief Executive Officer may determine.

(3) All water supplied in excess of the quantity to which such supply is limited under sub-section (2) and, in a cantonment in which a water tax is not imposed, all water supplied under this section, shall be paid for at such rate as the Board may fix keeping in view its financial viability.

(4) The supply of water for domestic use shall not be deemed to include any supply for—

- (a) animals or for washing vehicles where such animals or vehicle are kept for sale or hire;
- (b) any trade, manufacture or business;
- (c) fountains, swimming baths or any ornamental or mechanical purpose;
- (d) gardens or for purposes of irrigation;
- (e) making or watering roads or paths; or
- (f) building purposes.

Power to
require water-
supply to be
taken.

192. If it appears to the Chief Executive Officer that any building or land in the cantonment is without a proper supply of potable water, the Chief Executive Officer may, by notice in writing, require the owner, lessee or occupier of the building or land to obtain from a source of public water-supply such quantity of water, as is, adequate to the requirements of the persons usually occupying or employed upon the building or land, and to provide communication pipes of the prescribed size and description, and to take all necessary steps for the above purposes.

Supply of
water under
agreement.

193. (1) Subject to the guidelines made by the Board in this regard, the Chief Executive Officer may, by agreement, supply, from any source of public water-supply, the owner, lessee or occupier of any building or land in the cantonment with any water for any purpose, other than a domestic purpose, on such terms and conditions, consistent with this Act and the rules and bye-laws made thereunder, as may be agreed upon between the Chief Executive Officer and such owner, lessee or occupier.

(2) The Chief Executive Officer may withdraw such supply or curtail the quantity thereof at any time if it should appear necessary to do so for the purpose of maintaining sufficient supply of water for domestic use by inhabitants of the cantonment.

Board not
liable for
failure of
supply.

194. Notwithstanding any obligation imposed on Boards under this Act, a Board shall not be liable to any forfeiture, penalty or damages for failure to supply water or for curtailing the quantity thereof if the failure or curtailment, as the case may be arises from accident or from drought or other unavoidable cause unless, in the case of an agreement for the supply of water under section 193, the Board has made express provision for forfeiture, penalty or damages in the event of such failure or curtailment.

Conditions of
universal
application.

195. Notwithstanding anything hereinbefore contained or contained in any agreement under section 193, the supply of water by a Board to any building or land shall be, and shall be deemed to have been granted subject to the following conditions, namely:—

- (a) the owner, lessee or occupier of any building or land in or on which water supplied by the Board is wasted by reason of the pipes, drains or other works being out of repair shall, if he has knowledge thereof, give notice of the same to such officer as the Chief Executive Officer may appoint in this behalf;

(b) the Chief Executive Officer or any other officer or employee of the Board authorised by him in writing in this behalf may enter into or on any premises supplied with water by the Board, for the purpose of examining all pipes, taps, works and fittings connected with the supply of water and of ascertaining whether there is any waste or misuse of such water;

(c) the Chief Executive Officer may, after giving notice in writing, cut off the connection between any source of public water-supply and any building or land to which water is supplied for any purpose therefrom, or turn off such supply if—

(i) the owner or occupier of the building or land neglects to pay the water tax or water rate or other charges connected with the water supply within one month from the date on which such tax or rate or charge falls due for payment;

(ii) the occupier refuses to admit the Chief Executive Officer or other authorised officer or employee of the Board into the building or land for the purpose of making any examination or inquiry authorised by clause (b) or prevents the making of such examination or inquiry;

(iii) the occupier wilfully or negligently misuses or causes waste of water;

(iv) the occupier wilfully or negligently injures or damages his meter or any pipe or tap conveying water from the water works;

(v) any pipes, taps, works or fittings connected with the supply of water to the building or land are found, on examination by any other officer or employee of the Board authorised by the Chief Executive Officer in writing in this behalf, to be out of repair to such an extent as to cause waste of water;

(d) the expense of cutting off the connection or of turning off the water in any case referred to in clause (c) shall be paid by the owner or occupier of the building or land;

(e) no action taken under or in pursuance of clause (c) shall relieve any person from any penalty or liability which he may otherwise have incurred.

196. A Board may allow any person not residing within the limits of the cantonment to take or be supplied with water for any purpose from any source of public water supply on such terms as it may prescribe, and may at any time withdraw or curtail such supply.

Supply to persons outside cantonment.

197. Whoever—

Penalty.

(a) uses for other than domestic purposes any water supplied by a Board for domestic use; or

(b) where water is supplied by agreement with a Board for a specified purpose, uses that water for any other purposes shall be punishable with fine which may extend to two thousand five hundred rupees, and in addition, the Board shall be entitled to recover from him the cost of the water misused.

Water, drainage and other connections

198. A Board may carry any cable, wire, pipe, drain, sewer or channel of any kind,—

Power of Board to lay wires, connections, etc.

(a) for the purpose of carrying out, establishing or maintaining any system of water-supply, lighting, drainage, or sewerage, through, across, under or over any road or street, or any place laid out or intended as a road or street, or, after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up side of any building, situated within the cantonment; or

(b) for the purpose of supplying water or of the introduction or distribution of outflow of water or for the removal or outflow of sewage, after giving reasonable notice in writing to the owner or occupier, into, through, across, under or over any land or building, or up side of any building, situated outside the cantonment and may at all times do all acts and things which may be necessary or expedient for repairing or maintaining any such cable, wire, pipe, drain, sewer or channel in an effective state for the purpose for which the same may be used or is intended to be used :

Provided that no nuisance shall be caused in excess of what is reasonably necessary for the proper execution of the work:

Provided further that compensation shall be payable to the owner or occupier for any damage sustained by him which is directly occasioned by the carrying out of any such operation.

Wires, etc.,
laid above
surface of
ground.

199. In the event of any cable, wire, pipe, drain, sewer or channel being laid or carried above the surface of any land or through, over or up side of any building, such cable, wire, pipe, drain sewer or channel shall be so laid or carried as to interfere as little as possible with the rights of the owner or occupier to the due enjoyment of such land or building, and compensation shall be payable by the Board in respect of any substantial interference with the right to any such enjoyment.

Connection
with main not to
be made with-
out permission.

200. No person shall, for any purpose whatsoever, without the permission of the Board at any time make or cause to be made any connection or communication with any cable, wire, pipe, drain, sewer or channel constructed or maintained by, or vested in, a Board.

Power to pre-
scribe ferrules
and to establish
meters, etc.

201. The Chief Executive Officer may prescribe the size of the ferrules to be used for the supply of gas, if any, and may establish meters or other appliances for the purpose of measuring the quantity of any water or gas or testing the quality thereof supplied to any premises by the Board.

Power of
inspection.

202. The ferrules, communication pipes, connections, meters, stand pipes and all fittings thereon or connected therewith leading from water mains or from pipes, drains, sewers or channels into any house or land, to which water or gas is supplied by a Board, and the pipes, fittings, and works inside any such house or within the limits of any such land, shall in all cases be installed or executed subject to the inspection and to the satisfaction of the Chief Executive Officer.

Power to fix
rates and
charges.

203. A Board may fix the charges to be made for the establishment by them or through their agency or communications from, and connections with, mains, or pipes for the supply of water, or gas, or for meters or other appliances for measuring the quantity, or testing the quantity thereof supplied, and may levy such charges accordingly.

Application of this Chapter to Government water-supplies

Government
water-supply.

204.(1) Where in any cantonment there is a water-supply (other than a public water-supply under the control of the Board) under the control of the Military Engineer Services or the Public Works Department, the Officer of the Military Engineer Services or of the Public Works Department, as the case may be, in charge of such water-supply (hereafter in this Chapter referred to as the Officer) may publish in the cantonment in such manner as he thinks fit a notice declaring any lake, stream, spring, well, tank, reservoir or other source, whether within or without the limits of the cantonment other than a source of public water-supply and the officer may, for the purpose of keeping any such source in good order or of protecting it from contamination or from use, require the Board to exercise any power conferred upon it by section 190.

(2) In the case of any water-supply such as is referred to in sub-section (1), the following provisions of this Chapter, namely, the provisions of sections 191, 193, 194, 195, 197, 198, 199, 200, 201, 202 and 203 shall, as far as may be, be applicable in respect of the supply of water to the cantonment, and for the purpose of such application references to the Board shall be construed as references to the Officer, and references to the Chief Executive Officer or other officer or employee of the Board shall be construed as references to such person as may be authorised in this behalf by the Officer.

(3) The provisions of section 193 shall be applicable in respect of the supply of water by agreement to the Board by the Officer for use for any purpose other than a domestic purpose in like manner as they are applicable to such supply to the owner, lessee or occupier of any building or land in the cantonment.

(4) In order to preserve the underground water level, the Board may make regulations for the digging or use of bore wells in the cantonment.

205. (1) Where it appears to the Chief Executive Officer that any dwelling house in the cantonment is without supply of water for domestic consumption and that such a supply can be given from mains which is not more than one hundred feet distance from any part of such dwelling house, the Chief Executive Officer may by notice require the owner to obtain supply and to execute all such works as may be necessary for this purpose.

Water supply for domestic consumption.

(2) It shall not be lawful for the owner of any premises which may be constructed or reconstructed, to occupy it or cause or permit it to be occupied until he has obtained a certificate from the Chief Executive Officer that there is provided within, or within a reasonable distance of, the house supply of wholesome water as appears to the Chief Executive Officer to be sufficient for domestic consumption and use of the inmates of the house.

206. In any case in which the provisions of section 204 apply and in which the Board is not receiving a bulk supply of water under section 207, the water-tax, if any, imposed in the cantonment and all other rates arising out of the supply of water which may be imposed under the provisions of this Chapter as applied by section 204 shall be recovered by the Board, and all monies so recovered, or such proportion thereof as the Central Government may in each case determine, shall be paid by the Board to the Officer.

Recovery of charges.

207. (1) Where in any cantonment there is a water-supply such as is referred to in sub-section (1) of section 204, the Board may, and so long as the Board is unable to provide a water-supply of its own, it shall receive from the Military Engineer Services or the Public Works Department, as the case may be, at such point or points as may be agreed upon between the Board and the Military Engineer Services or Public Works Department, a supply of water adequate to the requirements for domestic use of all persons in the cantonment other than entitled consumers.

Supply of water from Government water-supply to the Board.

(2) Any supply of water received under sub-section (1) shall be a bulk supply, and the Board shall make such payments to the Military Engineer Services or Public Works Department for all water so received as may be agreed upon between the Board and the Military Engineer Services or Public Works Department, or, in default of such agreement, as may be determined by the Central Government to be reasonable having regard to the actual cost of supplying the water in the cantonment and the rate charge for water in any adjacent municipality:

Provided that, notwithstanding anything contained in this Act, the Board shall not charge for the supply to persons in the cantonment of water received by the Board under this section a rate calculated to produce more than the sum of the payments made to the Military Engineer Services or Public Works Department for water received and the actual cost of the supply thereof by the Board to consumers.

(3) If any dispute arises between the Board and the Military Engineer Service or Public Works Department regarding the rate and amount of water adequate to the requirements of persons in the cantonment other than entitled consumers, the disputes shall be referred to the Central Government whose decision shall be final.

208. Where under the provisions of sub-section (1) of section 207 a bulk supply of water is received by the Board, the Board shall be solely responsible for the supply of water to all persons in the cantonment other than entitled consumers; and the provisions of this Act shall apply as if such bulk supply were a source of public water-supply under the

Functions of the Board in relation to distribution of bulk supply.

control of the Board and as if the communications from and connections with such bulk supply for the purpose of supplying water to such persons were a system of water-supply established and maintained by the Board.

Special provisions concerning drainage and sewage.

209. (1) All public drains, all drains in, alongside or under any public street, except those vesting in the Military Engineer Service or any Department of the Central Government or a State Government or any autonomous body under the Central Government or a State Government and all sewage collection works, whether constructed out of the cantonment fund or otherwise and all works, material and things appertaining thereto, which are situated in the cantonment shall vest in the Board.

(2) All public and other drains, which are vested in the Board are hereafter in this Act referred to as cantonment drains.

(3) For the purposes of enlarging, deepening or otherwise repairing or maintaining any such drain or sewage collection work so much of the sub-soil appertaining thereto as may be necessary for the said purpose shall be deemed also to vest in the Board.

(4) All drains and ventilation shafts, pipes and all appliances and fittings connected with drainage works constructed, erected or set up out of the cantonment fund in or upon premises not belonging to the Board whether—

(a) before or after the commencement of this Act; and

(b) for the use of the owner or occupier of such premises or not, shall unless the Board has otherwise determined, or does at any time otherwise determine, vest and be deemed always to have vested in the Board.

Construction of and control of drains and sewage collection and disposal works.

210. (1) All cantonment drains, all sewage collection and all works, materials and things appertaining thereto shall be under the control of the Board.

(2) The Chief Executive Officer shall maintain and keep in repair all cantonment drains and sewage collection and sewage disposal works when authorised by the Board.

(3) The Board shall construct as many new drains and sewage collection and sewage disposal works as may from time to time be necessary for effectual drainage and sewage collection.

Certain matters not to be passed into cantonments drains.

211. No person shall throw, empty or turn into any cantonment drain or into any drain communicating with a cantonment drain—

(a) any matter likely to injure the drain or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents; or

(b) any chemical, refuse or waste stream, or any liquid of a temperature higher than forty-five degrees centigrade, being refuse or stream which, or liquid which when so heated is, either alone or in combination with the contents of the drain be dangerous, or the cause of a nuisance, or prejudicial to health; or

(c) any dangerous petroleum.

Explanation.—In this section, the expression “dangerous petroleum” has the same meaning as in the Petroleum Act, 1934.

30 of 1934.

Application by owners and occupiers to drain into cantonment drains.

212. (1) Subject to such conditions as may be prescribed by bye-laws made in this behalf, the owner or occupier of any premises having a private drain, or the owner of any private drain within cantonment may apply to the Chief Executive Officer to have his drain made to communicate with the cantonment drains and thereby to discharge foul water and surface water from those premises or that private drain:

Provided that nothing in this sub-section shall entitle any person—

(a) to discharge directly or indirectly into any cantonment drain—

(i) any trade effluent from any trade premises except in accordance with bye-laws made in this behalf; or

(ii) any liquid or other matter the discharge of which into cantonment drains is prohibited by or under this Act or any other law; or

(b) where separate cantonment drains are provided for foul water and for surface water to discharge directly or indirectly—

(i) foul water into a drain provided for the surface water; or

(ii) except with the permission of the Chief Executive Officer, surface water into a drain provided for foul water; or

(c) to have his drains made to communicate directly with a storm-water overflow drain.

(2) Any person desirous of availing himself of the provisions of sub-section (1) shall give to the Chief Executive Officer notice of his proposals, and at any time within one month after receipt thereof, the Chief Executive Officer may by notice to him refuse to permit the communication to be made, if it appears to him that the mode of construction or condition of the drain is such that the making of the communication would be prejudicial to the drainage system, and for the purpose of examining the mode of construction and condition of the drain he may, if necessary, require it to be laid open for inspection.

(3) The Chief Executive Officer may, if he thinks fit, construct such parts of the work necessary for having a private drain made to communicate with a cantonment drain, as is in or under a public street and in such a case, the expenses incurred by the Chief Executive Officer shall be paid by the owner or occupier of the premises, or as the case may be, the owner of the private drain and shall be recoverable from the owner or occupier as an arrears of tax under this Act.

213. (1) Where any premises are in the opinion of the Chief Executive Officer, without sufficient means of effectual drainage and a cantonment drain or some place approved by the Chief Executive Officer for the discharge of filth and other polluted and obnoxious matter is situated at a distance of not exceeding thirty metres from any part of the said premises, he may, by written notice, require the owner of the said premises—

Drainage of undrained premises.

(a) to make a drain emptying into such cantonment drain or place;

(b) to provide and set up all such appliances and fittings as may appear to the Chief Executive Officer necessary for the purposes of gathering and receiving the filth and other polluted and obnoxious matter from, and conveying the same off, the said premises and of effectually flushing such drain and every fixture connected therewith;

(c) to remove any existing drain or other appliance or thing used or intended to be used for drainage which is injurious to health;

(d) to provide a closed drain in substitution of an open drain or to provide such other appliance or thing either newly or in substitution of any existing appliance or thing or to provide both a close drain and such other appliance or thing in substitution of the existing open drain and other appliance or thing, which is or is likely to be injurious to health;

(e) to provide and set up all such appliances and fitting as may appear to the Chief Executive Officer to be necessary for the purpose of gathering and receiving the waste water from floors and galleries of buildings when they are washed, and conveying the same through spouts, by down-take pipes so as to prevent such waste water from discharging directly on streets or inside any lower portion of the premises;

(f) to carry out any work to improve or re-model an existing drain which is inadequate, insufficient or faulty.

(2) Where in any case not provided for in sub-section (1) any premises are, in the opinion of the Chief Executive Officer, without sufficient means of effectual drainage, he may, by written notice, require the owner of the premises—

(a) to construct a drain up to a point to be prescribed in such notice but not at a distance or more than thirty meters from any part of the premises; or

(b) to construct a closed cesspool or soakage-pit and drain or drains emptying into such cesspool or soakage pit.

(3) Any requisition for the construction of any drain under sub-section (2) may contain any of the details specified in sub-section (1).

New premises not to be erected without drains.

214. (1) It shall not be lawful to erect or to re-erect any premises in a cantonment or to occupy any such premises unless—

(a) a drain be constructed of such size, materials and description, at such level and with such fall as shall appear to the Chief Executive Officer to be necessary for the effectual drainage of such premises;

(b) there have been provided and set up on such premises such appliances and fittings as may appear to the Chief Executive Officer to be necessary for the purposes of gathering or receiving the filth and other polluted and obnoxious matter from, and conveying the same off, the said premises and of effectually flushing the drain of the said premises and every fixture connected therewith.

(2) The drain so constructed shall empty into a cantonment drain situated at a distance of not exceeding thirty meters from the premises; but if no cantonment drain is situated within that distance then such drain shall empty into a cesspool situated within that distance to be specified by the Chief Executive Officer for the purpose.

Power to drain group or block of premises by combined operations.

215. (1) If it appears to the Chief Executive Officer that any group or block of premises may be drained more economically or advantageously in combination than separately, and a cantonment drain of sufficient size already exists or is about to be constructed within thirty metres of any part of that group or block of premises, the Chief Executive Officer may cause that group or block of premises to be drained by a combined operation.

(2) The expenses incurred in carrying out any work under sub-section (1) in respect of any group or block of premises shall be paid by the owners of such premises in such proportions as the Chief Executive Officer may determine and shall be recoverable from them as an arrears of tax under this Act.

(3) Not less than fifteen days before any such work is commenced, the Chief Executive Officer shall give to each such owner—

(a) written notice of the nature of the proposed work; and

(b) an estimate of the expenses to be incurred in respect thereof and of the proportion of such expenses payable by him.

(4) The Chief Executive Officer may require the owners of such groups or block or premises to maintain the work executed under this section.

Power to close or limit the use of private drains in certain cases.

216. Where a drain connecting any premises with a cantonment drain is sufficient for the effectual drainage of such premises and is otherwise unobjectionable but is not in the opinion of the Chief Executive Officer, adapted to the general system of drainage in the cantonment, he may, by written notice addressed to the owner of the premises, direct—

(a) that such drain be closed, discontinued or destroyed and that any work necessary for that purpose be done; or

(b) that such drain shall, from such date as may be specified in the notice in this behalf, be used for filth and polluted water only or for rain water and unpolluted sub-soil water only:

Provided that—

(i) no drain may be closed, discontinued or destroyed by the Chief Executive Officer under clause (a) except on condition of his providing another drain equally effectual for the drainage of the premises and communicating with any cantonment drain which he thinks fit; and

(ii) the expenses of the construction of any drain so provided by the Board and of any work done under clause (a) may be paid out of the cantonment fund.

217. (1) Where the Chief Executive Officer either on receipt of an application from the owner of any premises or otherwise is of the opinion that the only, or the most convenient means of effectual drainage of the premises into a cantonment drain is through a drain belonging to another person, the Chief Executive Officer may by notice in writing require the owner of such a drain to show cause within a period specified in the notice as to why an order under this section should not be made.

Use of drain by a person other than the owner.

(2) Where no cause is shown within the specified period or the cause shown appears to the Chief Executive Officer invalid or insufficient, the Chief Executive Officer may by order in writing either authorise the owner of the premises to use the drain or declare him to be a joint owner thereof.

(3) An order made under sub-section (2) may contain directions as to—

(a) the payment of rent or compensation by the owner of the premises;

(b) the construction of a drain for the premises for the purpose of connecting it with the aforesaid drain;

(c) the entry upon the land in which the aforesaid drain is situate with assistants and workmen at all reasonable hours;

(d) the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the aforesaid drain.

218. Wherever it is provided in this Chapter that steps shall or may be taken for the effectual drainage of any premises, it shall be competent to the Chief Executive Officer to require that there shall be one drain for filth and polluted water and an entirely distinct drain for rain water and unpolluted sub-soil water or both rain water and unpolluted sub-soil water, each emptying into separate cantonment drains or other suitable places.

Sewage and rain water drains to be distinct.

219. For the purpose of efficient drainage of any premises, the Chief Executive Officer may, by notice in writing,—

Power to require owner to carry out certain works for satisfactory drainage.

(a) require any courtyard, alley or passage between two or more buildings to be paved by the owner or owners of such buildings with such materials and in such manner as may be approved by the Chief Executive Officer; and

(b) require such paving to be kept in proper repair.

220. The Chief Executive Officer may cause any or all of the cantonment drains to empty into, and all sewage to be collected of at, such place or places as he considers suitable:

Appointment of places for the emptying of drains and collection of sewage.

Provided that no place which has not been before the commencement of this Act used for any of the purposes specified in this section shall, after such commencement be used therefor without the approval of the Board:

Provided further that on and after such date as may be appointed by the Central Government in this behalf no sewage shall be discharged into any water course until it has been so treated as not to affect prejudicially the purity and quality of the water into which it is discharged.

Miscellaneous

Connection with water works and drains not to be made without permission.

221. Without the written permission of the Chief Executive Officer, no person shall, for any purpose whatsoever, at any time make or cause to be made any connection or communicate with any drain referred to in section 210 or any water works, constructed or maintained by, or vested in, the Board.

Buildings, railways and private streets not to be erected or constructed over drains or water works without permission.

222. (1)(a) No railway works shall be constructed on any cantonment drain or any water works constructed or maintained by, or vested in the Board, without the approval of the Central Government.

(b) If any railway works are constructed on any drains or water works as aforesaid without the written permission of the Central Government, the Chief Executive Officer may remove or otherwise deal with the same as he thinks fit.

(2)(a) No private street shall be constructed and no building, wall, fence or other structure shall be erected on any cantonment drain or on any water works constructed or maintained by, or vested in, the Board without the approval of the Board.

(b) If any private street is constructed or any building, wall, fence or structure erected on any drain or water works as aforesaid without the written permission of the Board, the Chief Executive Officer may remove or otherwise deal with the same as he may think fit.

(3) The expenses incurred by the Chief Executive Officer in doing so shall be paid by the owner of the private street or of the building, fence wall or other structure or, as the case may be, by the railway administration or the person offending and shall be recoverable as an arrears of tax under this Act.

Rights of user of property for aqueducts, lines, etc.

223. (1) The Chief Executive Officer may place and maintain aqueducts, conduits and lines of mains or pipes or drains over, under, along or across any immovable property whether within or without the local limits of the cantonment without acquiring the same, and may at any time for the purpose of examining, repairing, altering or removing any aqueducts, conduits or lines of mains or pipes or drains, enter on any property over, under, along or across which the aqueducts, conduits or lines of mains or pipes, or drains have been placed:

Provided that the Board shall not acquire any right other than a right of user in the property over, under, along or across which any aqueduct, conduit or line of mains or pipes, or drain is placed.

(2) The power conferred under sub-section (1) shall not be exercisable in respect of any property vested in the Union or under the control or management of the Central Government or railway administration or vested in any local authority save with the permission of the Central Government or railway administration or the local authority, as the case may be, and in accordance with any bye-laws made in this behalf:

Provided that the Chief Executive Officer may, without such permission, repair, renew, or amend any existing works of which the character or position is not to be altered if such repair, renewal or amendment is urgently necessary in order to maintain without interruption the supply of water, drainage or collection of sewage or is such that delay would be dangerous to health, human life or property.

(3) In exercise of the powers conferred upon him by this section, the Chief Executive Officer shall cause as little damage and inconvenience as may be possible, and shall make full compensation for any damage or inconvenience caused by him.

224. (1) If it appears to the Chief Executive Officer that the only or most convenient means of water supply to, and drainage of, any premises is by placing or carrying any pipe or drains over, under, along or across the immovable property of another person, the Chief Executive Officer may, by order in writing, authorise the owner of the premises to place or carry such pipe or drain over, under, along or across such immovable property:

Power of owner of premises to place pipes and drains through land belonging to other persons.

Provided that before making any such order the Chief Executive Officer shall give to the owner of the immovable property a reasonable opportunity of showing cause within such time as may be prescribed by bye-laws made in this behalf as to why the order should not be made:

Provided further that the owner of the premises shall not acquire any right other than a right of user in the property over, under, along or across which any such pipe or drain is placed or carried.

(2) Upon the making of an order, under sub-section (1), the owner of the premises may, after giving reasonable notice of his intention so to do, enter upon the immovable property with assistants and workmen at any time between sunrise and sunset for the purpose of placing a pipe or drain over, under, along or across such immovable property or for the purpose of repairing the same.

(3) In placing or carrying a pipe or drain under this section, as little damage as possible shall be done to the immovable property and the owner of the premises shall—

(a) cause the pipe or drain to be placed or carried with the least practicable delay;

(b) fill in, re-instate and make good at his own cost and with the least practicable delay, any land opened, broken up or removed for the purpose of placing or carrying such pipe or drain; and

(c) pay compensation to the owner of the immovable property and to any other person who sustains damage by reason of the placing or carrying of such pipe or drain.

(4) If the owner of the immovable property, over, under, along or across which a pipe or drain has been placed or carried under this section whilst such immovable property was not built upon, desires to erect any building on such property, the Chief Executive Officer, shall, by notice in writing, require the owner of the premises to close, remove or divert the pipe or drain in such manner as shall be approved by him and to fill in, re-instate and make good the immovable property as if the pipe or drain had not been placed or carried over, under, along or across the same:

Provided that no such requisition shall be made unless in the opinion of the Chief Executive Officer it is necessary or expedient for the construction of proposed building or the safe enjoyment thereof that the pipe or drain should be closed, removed or diverted.

225. If the Board places or carries any pipe or drain or does any other work connected with the water supply or drainage across any railway line, it may, with the sanction of the Central Government and at the cost of the cantonment fund, require the railway administration to raise or lower the level thereof.

Power to require railway level, etc., to be raised or lowered.

226. (1) When under the provisions of this Chapter, any person may be required or is liable to execute any work, the Chief Executive Officer may, in accordance with the provisions of this Act and of any bye-laws made in this behalf, cause such work to be executed after giving such person an opportunity of executing the same within such time as may be specified by him for this purpose.

Power to execute work after giving notice to the person liable.

(2) The expenses incurred or likely to be incurred by the Chief Executive Officer in the execution of any such work shall be payable by the said person and the expenses incurred by the Chief Executive Officer in connection with the maintenance of such work or the enjoyment of amenities and conveniences rendered possible by such work shall be payable by the person or persons enjoying such amenities and conveniences.

(3) The expenses referred to in sub-section (2) shall be recoverable from the person or persons liable therefor as an arrears of tax under this Act.

Power to affix shafts, etc., for ventilation of drain or cesspool.

227. For the purpose of ventilating any drain or cesspool, whether vested in the Board or not, the Chief Executive Officer may, in accordance with bye-laws made in this behalf, erect upon any premises or affix to the outside of any building or to any tree any such shaft or pipe as may appear to him to be necessary.

Power to examine and test drains, etc., believed to be defective

228. (1) Where it appears to the Chief Executive Officer that there are reasonable grounds for believing that a private drain or cesspool is in such condition as to be prejudicial to health or a nuisance or that a private drain communicating directly or indirectly with a cantonment drain is so defective as to admit sub-soil water, he may examine its condition, and for that purpose may apply any test, other than a test by water under pressure, and if he deems it necessary, open the ground.

(2) If on examination the drain or cesspool is found to be in proper condition, the Chief Executive Officer shall, as soon as possible, re-instate any ground which has been opened by him and make good any damage done by him.

Bulk delivery of sewage by the Board.

229. (1) The Board shall deliver in bulk all the sewage to, the authority prescribed by the Central Government or the State Government, subject to such charges for the delivery of sewage of the area of cantonment as may be determined by means of an agreement entered into between that other authority and the Board.

(2) The agreement mentioned in sub-section (1) shall provide also for a stipulation therein that in case of any dispute about the payments to be made to that other authority by the Board, the matter shall be referred to the Central Government whose decision thereon shall be final and binding on both parties.

Employment of Government agencies for repair, etc.

230. The Central Government may, for reason to be recorded, direct that any specified work, repair, renewal or replacement which is to be undertaken by or for the Board under this Chapter, shall be carried out on behalf of the Board by the Central Government and the Board shall pay the charges therefor at the rates and subject to the terms for the time being applicable in the case of works constructed by that Government on behalf of a local authority.

Work to be done by licensed plumber.

231. (1) No person other than a licensed plumber shall execute any work described in this Chapter and no person shall permit any such work to be executed except by a licensed plumber:

Provided that if, in the opinion of the Chief Executive Officer, the work is of a trivial nature, he may grant permission in writing for the execution of such work by a person other than a licensed plumber.

(2) Every person who employs a licensed plumber to execute any work shall, when so required, furnish to the Chief Executive Officer the name of such plumber.

(3) When any work is executed except in accordance with the provisions of sub-section (1), such work shall be liable to be dismantled at the discretion of the Chief Executive Officer without prejudice to the right of the Board to prosecute under this Act the person at whose instance such work has been executed.

(4) The Board may make bye-laws for the guidance of licensed plumbers and a copy of all such bye-laws shall be attached to every licence granted to a plumber by the Board.

(5) The Board may, from time to time, prescribe the charges to be paid to licensed plumber for any work done by them under or for any of the purposes of this Chapter.

(6) No licensed plumber shall, for any work referred to in sub-section (5), demand or receive more than the charges prescribed therefor, under that sub-section.

(7) The Board shall make bye-laws providing for—

(a) the exercise of adequate control on all licensed plumbers;

(b) the inspection of all works carried out by them; and

(c) the hearing and disposal of complaints made by the owners or occupiers of premises with regard to the quality of work done, material used, delay in execution of work, and the charges made, by a licensed plumber.

(8) No licensed plumber shall contravene any of the bye-laws made under this section or execute carelessly or negligently any work under this Act or make use of bad materials, appliances or fittings.

(9) If any licensed plumber contravenes sub-section (8), his licence may be suspended or cancelled whether he is prosecuted under this Act or not.

232. (1) No person shall—

Prohibition of certain acts.

(a) wilfully obstruct any person acting under the authority of the Board, or the Chief Executive Officer, in setting out the lines of any works or pull up or remove any pillar, post or stake fixed in the ground for the purpose of setting out lines of such work, or deface or destroy any works made for the same purpose; or

(b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other work or apparatus belonging to the Board; or

(c) unlawfully obstruct the flow of or flush, draw off, or divert, or take water from any water work belonging to the Board; or

(d) unlawfully obstruct the flow of or flush, draw off, or divert, or take sewage from any sewage work belonging to the Board or break or damage any electrical transmission line maintained by the Board; or

(e) obstruct any officer or other employee of the Board in the discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any water or sewage work; or

(f) bathe in, at or upon any water work or wash or throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any water work or wash or clean therein any cloth, wool or leather or the skin of any animal, or cause the water of any sink, or drain or any steam-engine or boiler or any polluted water to turn or be brought into any water work, or do any other act whereby the water in any water work is fouled or likely to be fouled.

(2) Nothing in clause (b) of sub-section (1) shall apply to a consumer closing the stopcock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

CHAPTER X

TOWN PLANNING AND CONTROL OVER BUILDINGS, ETC.

233. On the commencement of this Act, the Chief Executive Officer shall, with the approval of the Board, cause to be prepared a spatial plan for land use in the cantonment which shall include—

Preparation of land use plan.

(a) earmarking of zones for residential, institutional, commercial and other activities; and

(b) improvement schemes for areas considered sub-standard on account of narrowness of streets, poor lighting, poor ventilation or irregular line of buildings in a street.

Sanction for building.

234. No person shall erect or re-erect a building on any land in a cantonment—

(a) in an area, other than the civil area, except with the previous sanction of the Board;

(b) in a civil area, except with the previous sanction of the Chief Executive Officer,

nor otherwise than in accordance with the provisions of this Chapter and of the rules and bye-laws made under this Act relating to the erection and re-erection of buildings.

Notice of new buildings.

235. (1) Whoever intends to erect or re-erect any building in a cantonment shall apply for sanction by giving notice in writing of his intention—

(a) where such erection or re-erection is in an area, other than the civil area, to the Board;

(b) where such erection or re-erection is in a civil area, to the Chief Executive Officer.

(2) For the purposes of this Act, a person shall be deemed to erect or re-erect a building who—

(a) makes any material alteration or enlargement of any building; or

(b) converts into a place for human habitation any building not originally constructed for human habitation; or

(c) converts into more than one place for human habitation a building originally constructed as one such place; or

(d) converts two or more places of human habitation into a greater number of such places; or

(e) converts into a stable, cattle-shed or cow-house any building originally constructed for human habitation; or

(f) converts into a dispensary, stall, shops, warehouse, godown, factory or garage any building originally constructed for human habitation; or

(g) makes any alteration which there is reason to believe is likely to affect prejudicially the stability or safety of any building or the condition of any building in respect of drainage, sanitation or hygiene; or

(h) makes any alteration to any building which increases or diminishes the height of, or area covered by, or the cubic capacity of, the building, or which reduces the cubic capacity of any room in the building below the minimum prescribed by any bye-law made under this Act.

Conditions of valid notice.

236. (1) A person giving the notice required by section 235 shall specify the purpose for which it is intended to use the building to which such notice relates.

(2) No notice shall be valid until the information required under sub-section (1) and any further information and plans and undertakings which may be required under the bye-laws made under this Act have been furnished to the satisfaction of the Chief Executive Officer, along with the notice.

237. The powers, duties and functions of the Board under section 238, sub-section (1) of section 241, section 243, section 245 and section 248 excluding the provisions to sub-section (1) and the proviso to sub-section (2) of the said section 248 shall be exercised or discharged in a civil area by the Chief Executive Officer.

Powers of Board under certain sections exercisable by Chief Executive officer.

238. (1) The Board may either refuse to sanction the erection or re-erection, as the case may be, of the building, or may sanction it either absolutely or subject to such directions as it thinks fit to make in writing in respect of all or any of the following matters, namely:—

Power of Board to sanction or refuse.

- (a) the free passage or way to be left in front of the building;
- (b) the space to be left about the building to secure free circulation of air and facilitate scavenging and the prevention of fire;
- (c) the ventilation of the building, the minimum cubic area of the rooms and the number of height of the storeys of which the building may consist;
- (d) the provision and position of drains, latrines, urinals, cesspools or other receptacles for filth;
- (e) the level and width of the foundation, the level of the lowest floor and the stability of the structure;
- (f) the line of frontage with neighbouring buildings if the building abuts on a street;
- (g) the means to be provided for egress from the building in case of fire;
- (h) the materials and method of construction to be used for external and party walls for rooms, floors, fire-places and chimneys;
- (i) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on; and
- (j) any other matter affecting the ventilation and sanitation of the buildings, and the person erecting or re-erecting the building shall obey all such written directions in every particular.

(2) The Board may refuse to sanction the erection or re-erection of any building on any grounds sufficient in the opinion of the Board affecting the particular building:

Provided that the Board shall refuse to accord sanction the erection or re-erection of any building if such erection or re-erection is not in conformity with any general scheme sanctioned under section 240.

(3) The Board, before sanctioning the erection or re-erection of a building on land which is under the management of the Defence Estates Officer, shall refer the application to the Defence Estates Officer for ascertaining whether there is any objection on the part of the Government to such erection or re-erection; and the Defence Estates Officer shall return the application together with his report thereon to the Board within thirty days after it has been received by him.

(4) The Board may refuse to sanction the erection or re-erection of any building—

- (a) when the land on which it is proposed to erect or re-erect the building is held on a lease from the Government, if the erection or re-erection constitutes a breach of the terms of the lease; or
- (b) when the land on which it is proposed to erect or re-erect the building is entrusted to the management of the Board by the Government if the erection or re-erection constitutes a breach of the terms of the entrustment of management or con-

travenes any of the instructions issued by the Government regarding the management of the land by the Board; or

(c) when the land on which it is proposed to erect or re-erect the building is not held on a lease from the Government, if the right to build on such land is in dispute between the person applying for sanction and the Government.

(5) If the Board decides to refuse to sanction the erection or re-erection of the building, it shall communicate in writing the reasons for such refusal to the person by whom notice was given.

(6) Where the Board neglects or omits, for one month after the receipt of a valid notice, to make and to deliver to the person who has given the notice any order of any nature specified in this section, and such person thereafter by a written communication sent by registered post to the Board calls the attention of the Board to the neglect or omission, then, if such neglect or omission continues for a further period of fifteen days from the date of such communication the Board shall be deemed to have given sanction to the erection or re-erection, as the case may be:

Provided that in any case to which the provisions of sub-section (3) apply, the period of one month herein specified shall be reckoned from the date on which the Board has received the report referred to in that sub-section.

Order of
stoppage of
building or
works in
certain cases
and disposal of
things
removed.

239. (1) Where the erection of any building or execution of any work has been commenced or is being carried on without or contrary to the sanction, but has not been completed referred to in section 238 or in contravention of any condition subject to which such sanction has been accorded or in contravention of any provision of this Act or bye-laws made thereunder, the Chief Executive Officer may in addition to any other action that may be taken under this Act, by order require the person at whose instance the building or the work has been commenced or is being carried on to stop the same forthwith.

(2) If an order made by the Chief Executive Officer under sub-section (1) directing any person to stop the erection of any building or execution of any work is not complied with, the Chief Executive Officer may require any police officer to remove such person and all his assistants and workmen from the premises or to seize any construction material, tool, machinery, scaffolding or other things used in the erection of any building or execution of any work within such time as may be specified in the requisition and such police officer shall comply with the requisition accordingly.

(3) Any of the things caused or to be seized by the Chief Executive Officer under sub-section (2) shall be disposed of by him in a manner specified in sub-sections (6) and (7).

(4) After the requisition under sub-section (2) has been complied with the Chief Executive Officer may, if he thinks fit, depute by a written order a police officer or an officer or an employee of the Board to watch the premises in order to ensure that the erection of the building or the execution of work is not continued.

(5) Where a police officer or an officer or an employee of the Board has been deputed under sub-section (4) to watch the premises, the cost of such deputation shall be paid by the person at whose instance such erection or execution is being continued or to whom notice under sub-section (1) was given and shall be recoverable from such person as an arrear of tax under this Act.

(6) Any of the things caused to be removed by the Chief Executive Officer under this section shall unless the owner thereof turns up to take back such things and pays to the Chief Executive Officer charges for removal and storage of such things be disposed of by the Chief Executive Officer by public auction or in such other manner or within such time as the Chief Executive Officer thinks fit.

(7) The charges for removal and storage and sale of things sold under sub-section (6) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefor within a period of one year from the date of sale and if no such claim is made within the said period, shall be credited to the cantonment fund.

240. The Central Government may sanction a general scheme of erection or re-erection of buildings within such limits as may be specified in the sanction for the prevention of over crowding or for purpose of sanitation, or in the interest of persons residing within those limits or for any other purpose, and may, in pursuance of such scheme, impose restrictions on the erection or re-erection of buildings within those limits:

Power to sanction general scheme for prevention of overcrowding, etc.

Provided that no such scheme shall be sanctioned by the Central Government, unless an opportunity has been given by a public notice to be published locally by the Chief Executive Officer requiring persons affected or likely to be affected by the proposed scheme, to file their objections or suggestions in the manner specified in the notice, within a period of thirty days of the publication of such notice, and the Chief Executive Officer shall, after considering such objections and suggestions, if any, forward the same along with his recommendations for the consideration of the Central Government.

241. (1) No compensation shall be claimable by any person for any damage or loss which he may sustain in consequence of the refusal of the Board of sanction to the erection of any building or in respect of any direction issued by it under sub-section (1) of section 238.

Compensation.

(2) The Board shall make compensation to the owner of any building for any actual damage or loss sustained by him in consequence of the prohibition of the re-erection of any building or of its requiring any land belonging to him to be added to the street:

Provided that the Board shall not be liable to make any compensation in respect of the prohibition of the re-erection of any building which for a period of three years or more immediately preceding such refusal has not been in existence or has been unfit for human habitation.

242. Every person to whom sanction for the erection or re-erection of any building in any area in a cantonment has been given under section 237 or section 238 by the Chief Executive Officer or, as the case may be, by the Board shall, within thirty days after completion of the erection or re-erection of the building give a notice of completion in writing to the Chief Executive Officer or the Board, as the case may be, and the Chief Executive Officer or the Board shall on receipt of such notice cause the building to be inspected in order to ensure that the building has been completed in accordance with the sanction given by the Chief Executive Officer or the Board, as the case may be.

Completion notice.

243. Every sanction for the erection or re-erection of building given or deemed to have been given as hereinbefore provided shall be available for two years from the date on which it is given, and, if the building so sanctioned is not begun by the person who has obtained the sanction or some one lawfully claiming under him within that period, it shall not thereafter be begun unless the Chief Executive Officer, on application made therefor has allowed an extension of that period.

Lapse of sanction.

244. (1) No person shall, without the written permission of the Board or otherwise than in conformity with the conditions, if any, of such permission—

Restrictions on use of buildings.

(a) use or permit to be used for human habitation any part of a building not originally erected or authorised to be used for that purpose or not used for that purpose before any alteration has been made therein by any work executed in accordance with the provisions of this Act and the bye-laws made thereunder;

(b) change or allow the change of the use of any land or building;

(c) convert or allow the conversion of one kind of tenement into another kind.

(2) Any person who contravenes the provisions of sub-section (1) shall on conviction be punishable with a fine which may extend to one lakh rupees and in the case of continuing contravention with an additional fine of rupees ten thousand for every day during which the contravention continues after the date it comes to the notice.

Period for
completion of
building.

245. A Board, when sanctioning the erection or re-erection of a building as hereinbefore provided, shall specify a reasonable period after the work has commenced within which the erection or re-erection is to be completed, and, if the erection or re-erection is not completed within the period so fixed, it shall not be continued thereafter without fresh sanction obtained in the manner hereinbefore provided, unless the Board on application made therefor has allowed an extension of that period:

Provided that not more than two such extensions, each for not more than one year, shall be allowed in any case.

Completion
certificate.

246. The Chief Executive Officer shall on receipt of the notice under section 242 of this Act cause the building to be inspected either by himself or by the officer authorised by him in his behalf in order to ensure that the building has been completed in accordance with the sanction given and issue completion certificate provided that the person seeking the completion certificate shall assist the Chief Executive Officer in inspection of such building:

Provided that the building shall not be occupied for habitation unless a certificate is issued by the Chief Executive Officer or an officer authorised by him in this behalf:

Provided further that if the Chief Executive Officer fails within a period of thirty days after the receipt of the notice of completion, to communicate his refusal to issue such certificate, such certificate shall be deemed to have been granted.

Illegal erection
and re-
erection.

247. Whoever begins, continues or completes the erection or re-erection of a building—

(a) without having given a valid notice as required by sections 235 and 236, or before the building has been sanctioned or is deemed to have been sanctioned, or

(b) without complying with any direction made under sub-section (1) of section 238; or

(c) when sanction has been refused, or has ceased to be available or has been suspended by the General Officer Commanding-in-Chief, the Command, under clause (b) of sub-section (1) of section 58,

shall be punishable with fine which may extend to fifty thousand rupees and the cost of sealing the illegal construction and its demolition.

Power to stop
erection or re-
erection or to
demolish.

248. (1) The Board may, at any time, by notice in writing, direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the Board considers that such erection or re-erection is an offence under section 247 and may, in any such case or in any other case in which the Board considers that the erection or re-erection of a building is an offence under section 247, within twelve months of the completion of such erection or re-erection in like manner, direct the alteration or demolition, as it thinks necessary, of the building, or any part thereof, so erected or re-erected:

Provided that the Board may, instead of requiring the alteration or demolition of any such building or part thereof, accept by way of composition such sum as it thinks reasonable:

Provided further that the Board shall not, without the previous concurrence of the General Officer Commanding-in-Chief, the Command, accept any sum by way of

composition under the foregoing proviso in respect of any building on land which is not under the management of the Board.

(2) A Board shall by notice in writing direct the owner, lessee or occupier of any land in the cantonment to stop the erection or re-erection of a building in any case in which the order under section 238 sanctioning the erection or re-erection has been suspended by the General Officer Commanding-in-Chief, the Command, under clause (b) of sub-section (1) of section 58, and shall in any such case in like manner direct the demolition or alteration, as the case may be, of the building or any part thereof so erected or re-erected where the General Officer Commanding-in-Chief, the Command, thereafter directs that the order of the Board sanctioning the erection or re-erection of the building shall not be carried into effect or shall be carried into effect with modifications specified by him:

Provided that the Board shall pay to the owner of the building compensation for any loss actually incurred by him in consequence of the demolition or alteration of any building which has been erected or re-erected prior to the date on which the order of the General Officer Commanding-in-Chief, the Command, has been communicated to him.

249. (1) It shall be lawful for the Chief Executive Officer, at any time, before or after making an order of demolition under section 248 or of the stoppage of erection of any building, or execution of any work, to make an order directing the sealing of such erection or work or of the premises in which such erection or work is being carried on or has been completed at the cost of the offender in such manner as may be prescribed by rules for the purpose of carrying out the provisions of this Act or for preventing any dispute as to the nature and extent of such erection or work.

Power to seal
unauthorised
constructions.

(2) Where any erection or work or any premises in which any erection or work is being carried on, has or, has been sealed, the Chief Executive Officer may, for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the Chief Executive Officer under sub-section (2);

or

(b) under an order of an appellate authority in an appeal made under this Act.

(4) Any person who contravenes the provisions contained in sub-section (3) shall be punishable with imprisonment which may extend to six months or with fine which may extend to twenty thousand rupees, or with both.

250. (1) After the commencement of this Act, no court shall entertain any suit, application or other proceedings in respect of any order or notice unless an appeal under section 345 is preferred and the same is disposed of by the appellate authority under sub-section (3) of section 348 of this Act.

Courts not to
entertain
proceedings in
certain cases.

(2) Notwithstanding anything contained in sub-section (1), every suit, application or other proceedings pending in any court immediately before the commencement of this Act shall continue to be dealt with and disposed of by that court as if the said section has not been brought into force.

251. A Board may make bye-laws prescribing—

Power to make
bye-laws.

(a) the manner in which notice of the intention to erect or re-erect a building in the cantonment shall be given to the Board or, as the case may be, the Chief Executive Officer and the information and plans to be furnished with the notice;

(b) the manner in which and the form in which a notice of completion of erection or re-erection of any building in the cantonment shall be given to the Board or, as

the case may be, the Chief Executive Officer and the information and plans to be furnished with the notice;

(c) the type or description of buildings which may or may not, and the purpose for which a building may or may not, be erected or re-erected in the cantonment or any part thereof;

(d) the minimum cubic capacity of any room or rooms in a building which is to be erected or re-erected;

(e) the fees payable on provision by the Board of plans or specifications of the type of buildings which may be erected in the cantonment or any part thereof;

(f) the circumstances in which mosque, temple or church or other sacred building may be erected or re-erected; and

(g) with reference to the erection or re-erection of buildings, or of any class of buildings, or any of the following matters, namely:—

(i) the line of frontage where the building abuts on a street;

(ii) the space to be left about the building to secure free circulation of air and facilities for scavenging and for the prevention of fire;

(iii) the materials and method of construction to be used for external and party walls, roofs and floors;

(iv) the position, the materials and the method of construction of stair cases, fire places, chimneys, drains, latrines, privies, urinals and cess-pools;

(v) height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;

(vi) the level and width of the foundation, the level of the lowest floor, the stability of the structure and the protection of building from dampness arising from sub-soil;

(vii) the number and height of the storeys of which the building may consist;

(viii) the means to be provided for egress from the building in case of fire;

(ix) the safeguarding of wells from pollution; or

(x) the materials and method of construction to be used for godowns intended for the storage of foodgrains in excess of eighteen quintals in order to render them rat proof.

Prohibition of structures or fixtures which cause obstruction in streets.

252. (1) No person shall, except with the permission of the Chief Executive Officer, erect or set up any wall, fence, nail, post, step, booth or other structure whether fixed or movable or whether of a permanent or temporary nature, or any fixture in or upon any street so as to form an obstruction to, or an encroachment upon, or a projection over, or to occupy any portion of such street, channel, drain, well or tank.

(2) The Chief Executive Officer may, by notice in writing, require the owner or occupier of any such building to alter or remove any such projection or encroachment as aforesaid:

Provided that in the case of any projection or encroachment lawfully in existence at the commencement of this Act, the Chief Executive Officer shall make compensation for any damage caused by the removal or alteration.

(3) The Chief Executive Officer may, by order in writing, give permission to the

owners or occupiers of buildings in any particular street to put up open verandahs, balconies or rooms projecting from any upper storey thereof to an extent beyond the line of the plinth or basement wall at such height from the level ground or street as may be specified in the order.

253. The Chief Executive Officer may, by notice in writing require any person who has, without his permission in writing, newly erected or re-erected any structure over any public sewer, drain, culvert, water-course or water-pipe in the cantonment to pull down or otherwise deal with the same as he thinks fit.

Unauthorized buildings over drains, etc.

254. (1) The Chief Executive Officer may, by notice in writing, require the owner or lessee of any building or land in any street, at his own expense and in such manner as he thinks fit, to put up and keep in good condition, proper troughs and pipes for receiving and carrying rain water from the building or land and for discharging the same or to establish and maintain any other connection or communication between such buildings or land and a drain or sewer or a water harvesting structure or facility.

Drainage and sewer connections.

(2) For the purpose of efficiently draining any building or land in the cantonment, the Chief Executive Officer may, by notice in writing, require the owner or lessee of the building or land—

(a) to pave, with such materials and in such manner as he thinks fit, any courtyard, alley or passage between two or more buildings, or

(b) to keep any such paving in proper repair; or

(c) to make such arrangements as may be specified by the Board under bye-laws to deliver rain water from roof top to the water harvesting facility created or arranged by the Board.

255. The Chief Executive Officer may attach to the outside of any building, or to any tree in the cantonment, brackets for lamps or any accessories for non-conventional sources of energy in such manner as not to occasion injury thereto or inconvenience.

Power to attach brackets for lamps and other accessories.

256. (1) All roads in the civil area of a cantonment shall be maintained by the Board.

Maintenance of Roads.

(2) All roads outside the civil area as have been vested in the Board shall also be maintained by the Board.

Streets

257. (1) The Chief Executive Officer may, by order in writing, permit the temporary occupation of any street, or of any land vested in the Board, for the purpose of depositing any building materials or making any temporary excavation therein or erection thereon, subject to such conditions as the Board may prescribe for the safety or convenience of the public, and may charge a fee for such permission and may in his discretion withdraw such permission.

Temporary occupation of street, land, etc.

(2) Where any article or thing is placed on any street or land under the management of the Board or the Defence Estates Officer so as to form an obstruction thereto or any encroachment thereon, the Chief Executive Officer or, as the case may be, the Defence Estates Officer, may cause such article or thing to be removed and recover from the person who placed such article or thing the expenses incurred in that behalf in the same manner as moneys recoverable by the Board under section 329 and may also, if such person fails to offer satisfactory explanation, order the confiscation of such article or thing.

258. (1) A Board may open any street for public use.

Closing and opening of streets.

(2) A Board shall not permanently close any street without the prior permission of the General Officer Commanding in Chief, or the Principal Director:

Provided that no such street shall be closed for reasons other than the security reasons and without giving a public notice inviting objections and suggestions from the general public.

(3) The Chief Executive Officer may, by public notice, temporarily close any street or any part of a street for repair or for the purpose of carrying out any work connected with drainage, water-supply or lighting or any other work which he is by or under this Act required or permitted to carry out:

Provided that where, owing to any works or repairs or from any other cause, the condition of any street or of any water-works, drain, culvert or premises vested in the Board, is such as to be likely to cause danger to the public, the Board shall —

(a) take all reasonable means for the protection of the adjacent buildings and land and provide reasonable means of access thereto;

(b) cause sufficient barriers or fences to be erected for the security of life and property and cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

Names of
streets and
numbers of
buildings.

259. (1) A Board may determine the name or number by which any area, street or public place in the cantonment shall be known, may cause name or number to be affixed on any building in the cantonment in such place as it thinks fit and may also cause a number to be affixed to any such building.

(2) Whoever destroys, pulls down, defaces or alters any such name or number or puts up any name or number differing from that put up by the order of the Board shall be punishable with fine which may extend to one thousand rupees.

(3) When a name or number has been affixed to any building under sub-section (1), the owner of the building shall maintain the name or number in order, and shall replace it if removed or defaced, and if he fails to do so the Chief Executive Officer may by notice in writing require him to replace it.

Group Housing
Schemes.

260. A Board, may in accordance with the bye-laws framed for the purpose, allow the Group Housing Schemes for construction of houses.

Boundary
walls, hedges
and fences.

261. (1) No boundary wall, hedge or fence of any material or description shall be erected in a cantonment without the permission in writing of the Chief Executive Officer.

(2) The Chief Executive Officer may, by notice in writing, require the owner or lessee of any land in the cantonment —

(a) to remove from the land any boundary wall, hedge or fence which is in his opinion unsuitable, unsightly or otherwise objectionable; or

(b) to construct on the land sufficient boundary walls, hedges or fences of such material, description or dimensions as may be specified in the notice; or

(c) to maintain the boundary walls, hedges or fences of such lands in good order:

Provided that in the case of any such boundary wall, hedge or fence which was erected with the consent or under the orders of the Chief Executive Officer or which was in existence at the commencement of this Act, the Board shall make compensation for any damage caused by the removal thereof.

(3) The Chief Executive Officer may, by notice in writing, require the owner, lessee or occupier of any such land to cut or trim any hedge on the land in such manner and within such time as may be specified in the notice.

262. (1) Where, in the opinion of a Board, the felling of any tree of mature growth standing in a private enclosure in the cantonment is necessary for any reason, the Board may, by notice in writing, require the owner, lessee or occupier of the land to fell the tree within such time as may be specified in the notice.

Felling, lopping and trimming of trees.

(2) A Board may—

(a) cause to be lopped or trimmed any tree standing on land in the cantonment which belongs to the Government; or

(b) by public notice require all owners, lessees or occupiers of land in the cantonment, or by notice in writing require the owner, lessee or occupier of any such land, to lop or trim, in such manner as may be specified in the notice, all or any trees standing on such land or to remove any dead trees from such land.

263. Whoever, without the permission in writing of the Chief Executive Officer, digs up the surface of any open space in the cantonment, which is not private property, shall be punishable with fine which may extend to two thousand five hundred rupees, and, in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence continues.

Digging of public land

264. (1) If, in the opinion of the Chief Executive Officer, the working of a quarry in the cantonment, or the removal of stone earth or other material from the soil in any place in the cantonment, is dangerous to persons residing in or frequenting the neighbourhood or such quarry or place, or creates, or is likely to create, a nuisance, the Chief Executive Officer may, by notice in writing, prohibit the owner, lessee or occupier of such quarry or place or the person responsible for such working or removal, from continuing or permitting the working of such quarry or the moving of such material, or require him to take such steps in the matter as he may direct for the purpose of preventing danger or abating the nuisance arising or likely to arise therefrom.

Improper use of land.

(2) If, in any case referred to in sub-section (1), the Chief Executive Officer is of opinion that such a course is necessary in order to prevent imminent danger, he may, by order in writing, require a proper hoarding or fence to be put up for the protection of passers-by.

CHAPTER XI

MARKETS, SLAUGHTER-HOUSES, TRADES AND OCCUPATIONS

265. (1) A Board may provide and maintain, either within or without the cantonment, public markets and public slaughter-houses, to such number as it thinks fit, together with stalls, shops, sheds, pens and other buildings or conveniences for the use of persons carrying on trade or business in or frequenting such markets or slaughter-houses, and may provide and maintain in any such market buildings, places, machines, weights, scales and measures for the weighing or measurement of goods sold therein.

Public markets and slaughter-houses.

(2) When such market or slaughter-house is situated beyond cantonment limits, the Board shall have the same power for the inspection and proper regulation of the same as if it were situated within those limits.

(3) The Board may at any time, by public notice, close any public market or public slaughter-house or any part thereof.

(4) Nothing in this section shall be deemed to authorise the establishment of a public market or public slaughter-house within the limits of any area administered by any local authority other than the Board, without the permission of such local authority or otherwise than on such conditions as such local authority may approve.

266. (1) No person shall, without the general or special permission in writing of the Chief Executive Officer, sell or expose for sale any animal or article in any public market.

Use of public market.

(2) Any person contravening the provisions of this section, and any animal or article exposed for sale by such person, may be summarily removed from the market by or under the orders of the Chief Executive Officer or any official of the Board authorised by him in this behalf.

Power to transfer by public auction, etc.

267. (1) The Board may transfer by public auction, for any period not exceeding five years at a time, the right to occupy or use any stall, shop, standing, shed or pen in a public market, or public slaughter-house or the right to expose goods for sale in a public market or the right to weigh or measure goods sold therein, or the right to slaughter animals in any public slaughter-house:

Provided that where the Board is of opinion that such transfer of the aforesaid rights by public auction is not considered desirable or expedient, it may, with the previous sanction of the General Officer Commanding-in-Chief of the Command or the Principal Director,—

(a) either levy such stallages, rents or fees as it thinks fit; or

(b) farm the stallages, rents and fees leviable under clause (a) for any period not exceeding one year at a time:

Provided further that the enjoyment of any such aforesaid right by any person for any length of time shall never be deemed to create or confer any tenancy right in such stall, shop, standing, shed, pen, public market or public slaughter-house.

(2) The Board may transfer by public auction or otherwise any immovable property other than in a public market or a public slaughter house if such property is capable of being put to remunerative use for such period and on such terms and conditions as may be approved by the General Officer Commanding in Chief or the Principal Director of the Command.

Stallages, rents, etc., to be published.

268. A copy of the table of stallages, rents and fees, if any, leviable in any public market or public slaughter-house, and of the bye-laws made under this Act for the purpose of regulating the use of such market or slaughter-house, printed in English language or in such other language or languages as the Board may direct, shall be affixed in some conspicuous place in the market or slaughter-house.

Private markets and slaughter-houses.

269. (1) No place in a cantonment other than a public market shall be used as a market, and no place in a cantonment other than a public slaughter-house shall be used as a slaughter-house, unless such place has been licensed as a market or slaughter-house, as the case may be, by the Board:

Provided that nothing in this sub-section shall apply in the case of slaughter-house established and maintained by the Central Government or the State Government, as the case may be.

(2) Nothing in sub-section (1) shall be deemed —

(a) to restrict the slaughter of any animal in any place on the occasion of any festival or ceremony, subject to such conditions as to prior or subsequent notice as the Chief Executive Officer with the previous sanction of the District Magistrate may, by public or special notice, impose in this behalf; or

(b) to prevent the Chief Executive Officer, with the sanction of the Board, from setting apart places for the slaughter of animals in accordance with religious custom.

(3) Whoever omits to comply with any condition imposed by the Chief Executive Officer under clause (a) of sub-section (2) shall be punishable with fine which may extend to five thousand rupees and, in the case of continuing offence, with an additional fine which may extend to one thousand rupees for every day after the first during which the offence is continued.

270. (1) A Board may charge such fees as it thinks fit to impose for the grant of a licence to any person to open a private market or private slaughter-house in the cantonment, and may grant such licence subject to such conditions, consistent with this Act and any bye-laws made thereunder, as it thinks fit to impose.

Conditions of grant of licence for private market or slaughter-house.

(2) The Board may refuse to grant any such licence without giving reasons for such refusal.

271. (1) Any person who keeps open for public use any market or slaughter-house in respect of which a licence is required by or under this Act, without obtaining licence therefor, or while the licence therefor is suspended, or after the same has been cancelled, shall be punishable with fine which may extend to five thousand rupees and, in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence is continued.

Penalty for keeping market or slaughter-house open without licence, etc.

(2) When a licence to open a private market or private slaughter-house is granted or refused or is suspended or cancelled, the Board shall cause a notice of the grant, refusal, suspension or cancellation to be pasted in English or such language or languages as it thinks necessary in some conspicuous place by or near the entrance to the place to which the notice relates.

272. Whoever, knowing that any market or slaughter-house has been opened to the public without a licence having been obtained therefor when such licence is required by or under this Act, or that the licence granted therefor is for the time being suspended or that it has been cancelled, sells or exposes for sale any article in such market, or slaughters any animals in such slaughter-house, shall be punishable with fine which may extend to five thousand rupees and, in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence is continued.

Penalty for using unlicensed market or slaughter-house.

273. (1) Where, in the opinion of the Chief Executive Officer, it is necessary on sanitary grounds so to do, he may, by public notice, prohibit for such period not exceeding one month, as may be specified in the notice, or for such further period not exceeding one month, as he may specify by a like notice, the use of any private slaughter-house specified in the notice, or the slaughter therein of any animal of any description so specified.

Prohibition and restriction of use of slaughter-house.

(2) A copy of every notice issued under sub-section (1) shall be conspicuously pasted in the slaughter-house to which it relates.

274. (1) Any official of a Board, authorised by order in writing in this behalf by the Chief Executive Officer or the Health Officer, may, if he has reason to believe that any animal has been, is being, or is about to be slaughtered in any place in contravention of the provisions of this Chapter, enter into and inspect any such place at any time, whether by day or by night.

Power to inspect slaughter-houses.

(2) Every such order shall specify the place to be entered and the locality in which the same is situated and the period, which shall not exceed seven days for which the order is to remain in force.

275. A Board may, by order, regulate all or any of the following matters, namely :—

Power to regulate certain activities.

(a) the days on, and the hours during, which any private market or private slaughter-house may be kept open for use;

(b) the regulation of the design, ventilation and drainage of such market or slaughter-houses, and the material to be used in the construction thereof;

(c) the keeping of such markets and slaughter-houses and lands and buildings appertaining thereto in a clean and sanitary condition, the removal of filth and refuse therefrom, and the supply therein of pure water and of a sufficient number of latrines and urinals for the use of persons using or frequenting the same;

- (d) the manner in which animals shall be stalled at a slaughter-house;
- (e) the manner in which animals may be slaughtered;
- (f) the disposal or destruction of animals offered for slaughter which are, from disease or any other cause, unfit for human consumption;
- (g) the destruction of carcasses which from disease or any other cause are found after slaughter to be unfit for human consumption; and
- (h) any other matter with respect to the regulation of such markets and slaughter-houses.

Trades and occupations

Provision of
washing places.

276. (1) A Board may provide suitable places for the exercise by washermen of their calling, and may require payment of such fees for the use thereof as it thinks fit.

(2) Where the Board has provided such places as aforesaid it may, by public notice, prohibit the washing of clothes by washermen at any other place in the cantonment:

Provided that such prohibition shall not be deemed to apply to the washing by a washerman of his own clothes or of the clothes of any other person who is an occupier of the place at which they are washed.

(3) Whoever contravenes any prohibition contained in a notice issued under subsection (2) shall be punishable with fine which may extend to five hundred rupees.

Licences
required for
carrying on of
certain
occupations.

277. (1) No person of any of the following classes, namely:—

- (a) butchers and vendors of poultry, game or fish;
- (b) persons keeping pigs for profit, and dealers in the flesh of pigs which have been slaughtered within or without cantonment;
- (c) persons keeping milch cattle or milch goats for profit;
- (d) persons keeping for profit any animals other than pigs, milch cattle or milch goats;
- (e) dairymen, buttermen and makers and vendors of ghee;
- (f) makers of bread, biscuits or cake and vendors of bread, biscuits or cake made within or without cantonment;
- (g) vendors of fruits or vegetables;
- (h) manufacturers of aerated or other potable waters or of ice or ice-cream, and vendors of the same;
- (i) vendors of any medicines, drugs or articles of food or drink for human consumption (other than the flesh of pigs, milk, butter, bread, biscuits, cake, fruit, vegetables, aerated or other potable waters or ice or ice-cream) which are of a perishable nature;
- (j) vendors of spirituous liquor;
- (k) vendors of water to be used for drinking purposes;
- (l) washermen;
- (m) dealers in hay, straw, wood, charcoal or other inflammable material;
- (n) dealers in fire-works, kerosene oil, petroleum or any other inflammable oil or spirit;
- (o) tanners and dyers;
- (p) persons carrying on any trade or occupation from which offensive or unwholesome smells arise;

(q) vendors of wheat, rice and other grain or of flour;

(r) makers and vendors of sugar or sweetmeats;

(s) barbers and keepers of shaving saloons;

(t) any other person carrying on such other trade, calling or occupation as the Central Government may, by notification in the Official Gazette, specify in this behalf,

shall carry on his trade, calling or occupation in any part of a cantonment unless he has applied for and obtained a licence in this behalf from the Board.

(2) A licence granted under sub-section (1) shall be valid until the end of the year in which it is issued and the grant of such licence shall not be withheld by the Board unless it has reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to the public or that the premises in which the business is intended to be established or maintained are unfit or unsuitable for the purpose.

(3) Notwithstanding anything contained in sub-section (1),—

(a) no person who was, at the commencement of this Act, carrying on his trade, calling or occupation in any part of a cantonment shall be bound to apply for a licence for carrying on such trade or occupation in that part until he has received from the Board not less than three month's notice in writing of his obligation to do so, and if the Board refuses to grant him a licence, it shall pay compensation for any loss incurred by reason of such refusal;

(b) no person shall be required to take out a licence for the sale or storage of petroleum or for the sale or possession for sale of poisons or white arsenic in any case in which he is required to take out a licence for such sale, storage, or possession for sale by or under the Petroleum Act, 1934, or the Poisons Act, 1919.

30 of 1934.
12 of 1919.

(4) The Board may charge for the grant of licences, under this section such reasonable fees, as it may fix keeping in view the fees levied in this regard in a municipality in the State wherein such cantonment is situated.

278. If the Chief Executive Officer is of opinion that any eating house, lodging house, hotel, boarding house, tea shop, coffee house, café, restaurant, refreshment room or other place where public is admitted for repose or for consumption of any food or drink or where food is sold or prepared for sale or any theatre, cinema hall, circus, dancing hall or similar other place of public resort, recreation or amusement is kept open without a license or otherwise than in conformity with the terms of a license granted in respect thereof, he may stop the use of any such premises for any such purpose for a specified period by such means as he may consider necessary.

Power to stop
use of
premises used
in contraven-
tion of
licences.

279. A licence granted to any person under section 277 shall specify the part of the cantonment in which the licensee may carry on his trade, calling or occupation, and may regulate the hours and manner of transport within the cantonment of any specified articles intended for human consumption, and may contain any other conditions which the Board thinks fit to impose in accordance with bye-laws made under this Act.

Conditions
which may be
attached to
licences.

General provisions

280. If the Board is satisfied that any place used under a licence granted under this Chapter is a nuisance or is likely to be dangerous to life, health or property, the Board may, by notice in writing, require the owner, lessee or occupier thereof to discontinue the use of such place or to effect such alternations, additions, or improvements as will, in the opinion of the Board, render it no longer a nuisance or dangerous.

Power to vary
licence.

Carrying on trade, etc., without licence or in contravention of section 280.

281. Whoever carries any trade, calling or occupation for which a licence is required without obtaining a licence therefor or while the licence therefor is suspended or after the same has been cancelled, and whoever, after receiving a notice under section 280, uses or allows to be used any building or place in contravention thereof, shall be punishable with fine which may extend to five thousand rupees and, in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence is continued.

Feeding animals on dirt, etc.

282. Whoever feeds or allows to be fed on filthy or deleterious substances any animal, which is kept for the purpose of supplying milk to, or which is intended to be used as food for, the inhabitants of a cantonment or allows it to graze in any place in which grazing has, for sanitary reasons, been prohibited by public notice by the Board shall be punishable with fine which may extend to one thousand rupees.

Entry, inspection and seizure

Powers of entry and seizure.

283. (1) The President or the Vice-President, the Chief Executive Officer, the Health Officer, the Assistant Health Officer, or any other official of a Board authorised by it in writing in this behalf—

(a) may at any time enter into any market, building, shop, stall or other place in the cantonment for the purpose of inspecting, and may inspect, any animal, article or thing intended for human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale, or of preparation for sale, or any utensil or vessel for preparing, manufacturing or containing any such article, or thing, and may enter into and inspect any place used as a slaughter-house and may examine any animal or article therein;

(b) may seize any such animal, article or thing which appears to him to be diseased, or unwholesome or unfit for human food or drink or medicine, as the case may be, or to be adulterated or to be not what it is represented to be, or any such utensil or vessel which is of such a kind or in such a state as to render any article prepared, manufactured or contained therein unwholesome or unfit for human food, drink or medicine, as the case may be.

(2) Any article seized under sub-section (1) which is of a perishable nature may, under the orders of the Health Officer or the Assistant Health Officer, forthwith be destroyed if, in his opinion, it is diseased, unwholesome or unfit for human food, drink or medicine, as the case may be.

(3) Every animal, article, utensil, vessel or other thing seized under sub-section (1) shall, if it is not destroyed under sub-section (2), be taken before a Magistrate who shall give orders as to its disposal.

(4) The owner or person in possession, at the time of seizure under sub-section (1), of any animal or carcass which is diseased or of any article or thing which is unwholesome or unfit for human food, drink or medicine, as the case may be, or is adulterated or is not what it is represented to be, or of any utensil or vessel which is of such kind or in such state as is described in clause (b) of sub-section (1), shall be punishable with fine which may extend to five thousand rupees, and the animal, article, utensil, vessel or other thing shall be liable to be forfeited to the Board or to be destroyed or to be so disposed of as to prevent it being exposed for sale or used for the preparation of food, drink or medicine, as the case may be.

Explanation 1.—If any such article, having been exposed or stored in, or brought to, any place mentioned in sub-section (1) for sale as ghee, contains any substance not exclusively derived from milk, it shall be deemed, for the purposes of this section, to be an article which is not what it is represented to be.

Explanation 2.—Meat subjected to the process of blowing shall be deemed to be unfit for human food.

Explanation III.—The article of food or drink shall not be deemed to be other than what it is represented to be merely by reason of the fact that there has been added to it some substance not injurious to health:

Provided that —

(a) such substance has been added to the article because the same is required for the preparation or production thereof as an article of commerce in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or drink or conceal the inferior quality thereof; or

(b) in the process of production, preparation or conveyance of such article of food or drink, the extraneous substance has unavoidably become intermixed therewith; or

(c) the owner or person in possession of the article has given sufficient notice by means of a label distinctly and legibly written or printed thereon or therewith, or by other means of a public description, that such substance has been added; or

(d) such owner or person has purchased the article with a written warranty that it was of a certain nature, substance and quality and had no reason to believe that it was not of such nature, substance and quality, and has exposed it or hawked it about or brought it for sale in the same state and by the same description as that in and by which he purchased it.

Import of cattle and flesh

284. (1) No person shall, without the permission in writing of the Chief Executive Officer, bring into a cantonment any animal intended for human consumption, or the flesh of any animal slaughtered outside the cantonment otherwise than in a slaughter-house maintained by the Central Government or the State Government or the Board:

Import of
cattle and
flesh.

Provided that the Chief Executive Officer shall not grant such permission unless he has considered the recommendation of the Health Officer made in this behalf.

(2) Any animal or flesh brought into a cantonment in contravention of sub-section (1) may be seized by the Chief Executive Officer or by any official of the Board and sold or otherwise disposed of as the President of the Board may direct, and, if it is sold, the sale-proceeds may be credited to the cantonment fund.

(3) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to two thousand five hundred rupees.

(4) Nothing in this section shall be deemed to apply to cured or preserved meat or to animals driven or meat carried through a cantonment for consumption outside thereof, or to meat brought into a cantonment by any person for his immediate domestic consumption:

Provided that the Board may, by public notice, direct that the provisions of this section shall apply to cured or preserved meat of any specified description or brought from any specified place.

CHAPTER XII

SPIRITUOUS LIQUORS AND INTOXICATING DRUGS

285. If within a cantonment, or within such limits adjoining a cantonment as the Central Government may, by notification in the Official Gazette, define, any person not subject to Army, Navy or Air Force law, or any person subject to Army, Navy or Air Force law, otherwise than as a military officer or a soldier knowingly barter, sells or supplies, or offers or attempts to barter, sell or supply, any spirituous liquor or intoxicating drug to or for the use of any soldier or soldier's wife or minor child without the written permission of the Officer Commanding the station, or of some person authorised by the Officer

Unauthorised
sale of
spirituous
liquor or
intoxicating
drug.

Commanding the station, to grant such permission, he shall be punishable with fine which may extend to five thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Unauthorised possession of spirituous liquor.

286. If within a cantonment, or within any limits defined under section 285 —

(a) any person subject to, Army, Navy or Air Force law, otherwise than as a military officer or a soldier; or

(b) the wife or servant of any such person or of a soldier,

has in his or her possession, except on behalf of the Central Government or for the private use of a military officer, more than one quart of any spirituous liquor, other than fermented malt-liquor, without the written permission of the Officer Commanding the station or of some person authorised by the Officer Commanding the station, to grant such permission, he or she shall be punishable, in the case of a first offence, with fine which may extend to two thousand five hundred rupees, and, in the case of a subsequent offence, with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees.

Arrest of persons and seizure and confiscation of things for offences against the two last foregoing sections.

287. (1) Any police officer or excise officer may, without an order from a Judicial Magistrate, and without a warrant, arrest any person whom he finds committing an offence under section 285 or section 286, and may seize and detain any spirituous liquor or intoxicating drug in respect of which such an offence has been committed and any vessels or coverings in which the liquor or drug is contained.

(2) Where a person accused of an offence under section 285 has been previously convicted of an offence under that section, an officer in charge of a police station may, with the written permission of a Judicial Magistrate seize and detain any spirituous liquor or intoxicating drug within the cantonment or within any limits defined under that section which, at the time of the alleged, commission of the subsequent offence, belonged to, or was in the possession of, such person.

(3) The court convicting a person of an offence under section 285 or section 286 may order the confiscation of the whole or any part of anything seized under sub-section (1) or sub-section (2).

(4) Subject to the provisions of Chapter XXXIV of the Code of Criminal Procedure, 1973, anything, seized under sub-section (1) or sub-section (2) and not confiscated under sub-section (3) shall be restored to the person from whom it was taken.

2 of 1974.

Saving of articles sold or supplied for medicinal purposes.

288. The foregoing provisions of this Chapter shall not apply to the sale or supply of any article in good faith for medicinal purposes by a medical practitioner, chemist or druggist authorised in this behalf by a general or special order of the Officer Commanding the station.

CHAPTER XIII

PUBLIC SAFETY AND SUPPRESSION OF NUISANCES

General Nuisances

Penalty for causing nuisances.

289. (1) Whoever —

(a) in any street or other public place within a cantonment —

(i) is drunk and disorderly or drunk and incapable of taking care of himself; or

(ii) uses any threatening, abusive or insulting words, or behaves in a threatening or insulting manner with intent to provoke a breach of the peace, or whereby a breach of the peace is likely to be occasioned; or

(iii) eases himself, or willfully or indecently exposes his person; or

(iv) loiters, or begs importunately, for alms; or

(v) exposes or exhibits, with the object of exciting charity, any deformity or disease or any offensive sore or wound; or

(vi) carries meat exposed to public view; or

(vii) is found gaming, or

(viii) pickets animals, or collects vehicles; or

(ix) being engaged in the removal of night-soil or other offensive matter or rubbish, willfully or negligently permits any portion thereof to spill or fall, or neglects to sweep away or otherwise effectually to remove any portion thereof which may spill or fall in such street or place; or

(x) without proper authority affixes upon any building, monument, post, wall, fence, tree or other thing, any bill, notice or other document; or

(xi) without proper authority defaces or writes upon or otherwise marks any building, monument, post, wall, fence, tree or other thing; or

(xii) without proper authority removes, destroys, defaces or otherwise obliterates any notice or other document put up or exhibited under this Act; or

(xiii) without proper authority displaces, damages, or makes any alteration in, or otherwise interferes with, the pavement, gutter, storm water- drain, flags or other materials of any such street, or any lamp, bracket, direction-post, hydrant or water-pipe maintained by the Board in any such street or public place, or extinguishes a public light; or

(xiv) carries any corpse not decently covered or without taking due precautions to prevent risk of infection or injury to the public health or annoyance to passers-by or to persons dwelling in the neighbourhood; or

(xv) carries night-soil or other offensive matter or rubbish at any hour prohibited by the Chief Executive Officer by public notice, or in any pattern of vehicle or receptacle which has not been approved for the purpose by the Chief Executive Officer, or fails to close such vehicle or receptacle when in use; or

(b) carries night-soil or other offensive matter or rubbish along any route in contravention of any prohibition made in this behalf by the Chief Executive Officer by public notice; or

(c) deposits, or causes or permits to be deposited, earth or materials of any description, or any offensive matter or rubbish, in any place not intended for the purpose in any street or other public place or waste or unoccupied land under the management of the Board; or

(d) having charge of a corpse fails to bury, burn or otherwise lawfully dispose of the same within twenty-four hours after death; or

(e) makes any grave or buries or burns any corpse in any place not set apart for such purpose; or

(f) keeps or uses, or knowingly permits to be kept or used, any place as a common gaming house, or assists in conducting the business of any common gaming house; or

(g) at any time or place at which the same has been prohibited by the Chief Executive Officer by public or special notice, beats a drum or tomtom, or blows a horn or trumpet, or beats any utensil, or sounds any brass or other instrument, or plays any music; or

(h) disturbs the public peace or order by singing, screaming or shouting or by using megaphone or loud-speaker; or

(i) lets loose any animal so as to cause, or negligently allows any animal to cause, injury, danger, alarm or annoyance to any person; or

(j) being the occupier of any building, or land in or upon which an animal dies, neglects within three hours of the death of the animal, or, if the death occurs at night, within three hours after sunrise, either —

(i) to report the occurrence to the Chief Executive Officer or to an officer, if any, appointed by him in this behalf with a view to securing the removal and disposal of the carcass by the public conservancy establishment; or

(ii) to remove and dispose of the carcass in accordance with any general directions given by the Board by public notice or any special direction given by the Chief Executive Officer on receipt of such report as aforesaid; or

(k) save with the written permission of the Chief Executive Officer and in such manner as he may authorise, stores or uses night-soil, manure, rubbish or any other substance emitting an offensive smell; or

(l) uses or permits to be used as a latrine any place not intended for the purpose; or

(m) uses or permits to be used without previous permission of the Chief Executive Officer any premises for any trade involving offensive smell or smoke;

shall be punishable with fine which may extend to two thousand five hundred rupees.

(2) Whoever does not take reasonable means to prevent any child under the age of twelve years being in his charge from easing himself in any street or other public place within the cantonment shall be punishable with fine which may extend to two hundred fifty rupees.

(3) The owner or keeper of any animal found picketed or staying without a keeper in a street or other public place in a cantonment shall be punishable with fine which may extend to one thousand rupees.

(4) Any animal found picketed or straying as aforesaid may be removed by any officer or employee of the Board to a pound.

(5) Whoever in a cantonment manufactures, supplies, carries or uses for packaging or any other purposes material of non-biodegradable nature including polythene bags shall be punished with fine which may extend to five thousand rupees or imprisonment which may extend to six months.

Dogs

Registration
and control of
dogs.

290. (1) A Board may make bye-laws to provide for the registration of all dogs kept within the cantonment.

(2) Such bye-laws shall —

(a) require the registration, by any officer authorised in this behalf of all dogs kept in the cantonment;

(b) require that every registered dog shall wear a collar to which shall be attached a metal token to be issued by the registration authority, and fix the fee payable for the issue thereof;

(c) require that any dog which has not been registered or which is not wearing such token shall, if found in any public place, be detained at a place set apart for the purpose; and

(d) fix the fee which shall be charged for such detention and provide that any such dog shall be liable to be destroyed or otherwise disposed of unless it is claimed and the fee in respect thereof is paid within one week, and may provide for such other matters as the Board thinks fit.

(3) The Chief Executive Officer may –

(a) cause to be destroyed, or to be confined for such period as he may direct, any dog or other animal which is, or is reasonably suspected to be, suffering from rabies, or which has been bitten by any dog or other animal suffering or suspected to be suffering from rabies;

(b) by public notice direct that, after such date as may be specified in the notice, dogs which are without collars or without marks distinguishing them as private property and are found straying on the streets or beyond the enclosures of the houses of their owners, if any, may be destroyed, and cause them to be destroyed accordingly.

(4) No damages shall be payable in respect of any dog or other animal destroyed or otherwise disposed of under this section.

(5) Whoever, being the owner or person in charge of any dog, neglects to restrain it so that it shall not be at large in any street without being muzzled and without being secured by a chain lead in any case in which –

(a) he knows that the dog is likely to annoy or intimidate any person; or

(b) the Board has, by public notice during the prevalence of rabies, directed that dogs shall not be at large without muzzles and chain leads,

shall be punishable with fine which may extend to one thousand rupees.

(6) Whoever in a cantonment—

(a) allows any ferocious dog which belongs to him or is in his charge to be at large without being muzzled; or

(b) sets on or urges any dog or other animal to attack, worry or intimidate any person, or

(c) knowing or having reason to believe that any dog or animal belonging to him or in his charge has been bitten by an animal suffering or reasonably suspected to be suffering from rabies, neglects to give immediate information of the fact to the Chief Executive Officer or gives information which is false,

shall be punishable with fine which may extend to two thousand rupees.

Traffic

291. Whoever in driving, leading or propelling a vehicle along a street fails, except in a case of actual necessity,—

Traffic Rule of the road.

(a) to keep to the left when passing a vehicle coming from the opposite direction; or

(b) to keep to the right when passing a vehicle going in the same direction as himself,

shall be punishable with fine which may extend to five hundred rupees.

Prevention of fire, etc.

292. (1) The Chief Executive Officer may, by public notice, direct that within such limits in the cantonment as may be specified in the notice, the roofs and external walls of huts or other buildings shall not, without the permission in writing of the Chief Executive Officer be made or renewed of grass, mats, leaves or other inflammable materials, and may,

Use of inflammable materials for building purposes.

by notice in writing, require any person who has disobeyed any such direction as aforesaid to remove or alter the roofs or walls so made or renewed.

(2) The Chief Executive Officer may, by notice in writing, require the owner of any building in the cantonment which has an external roof or wall made of any such material as aforesaid to remove such roof or wall within such time as may be specified in the notice, notwithstanding that a public notice under sub-section (1) has not been issued or that such roof or wall was made with the consent of the Chief Executive Officer or before the issue of such public notice:

Provided that in the case of any such roof or wall in existence before the issue of such a public notice or made with the consent of the Chief Executive Officer, it shall make compensation, not exceeding the original cost of constructing the roof or wall, for any damage caused by the removal.

Stacking or
collecting
inflammable
materials.

293. A Board may, by a public notice, prohibit in any case where such prohibition appears to it to be necessary for the prevention of danger to life or property, the stacking or collecting of wood, dry grass, straw or other inflammable materials, or the placing of mats or thatched huts or the lighting of fires in any place in the cantonment, or within any limits therein, which may be specified in the notice:

Provided that Chief Executive Officer may, in case of imminent danger to public life or property, enforce such prohibition in consultation with the President or the Vice-President in the absence of the President.

Care of naked
lights.

294. No person shall set a naked light on or near any building in any street or other public place in a cantonment in such manner as to cause danger of fire:

Provided that nothing in this section shall be deemed to prohibit the use of lights for purpose of illumination on the occasion of a festival or public or private entertainment.

Regulation of
cinemato-
graphic and
dramatic
performance.

295. (1) Notwithstanding anything contained in any other law relating to sanctioning of cinematograph films for exhibition, no exhibition of pictures or other optical effects by means of a cinematograph or other like apparatus for the purpose of which inflammable films are used, and no public dramatic performance, pantomime, circus, carnival, exhibition, dance or other similar show for public recreation or amusement, shall be given in any cantonment elsewhere than in premises for which a licence has been granted by the Chief Executive Officer under this section.

(2) If the owner of a cinematograph or other apparatus uses the apparatus or allows it to be used, or if any person takes any part in any public dramatic performance, pantomime, circus, carnival, exhibition, dance or other similar show for public recreation or amusement, in contravention of the provisions of this section, or if the occupier of any premises allows them to be used in contravention of the provisions of this section or of any condition of any licence granted under this section, he shall be punishable with fine which may extend to five thousand rupees, and, in the case of continuing offence, with an additional fine which may extend to two thousand rupees for each day after the first during which the offence continues.

(3) Nothing in this section shall be deemed to prohibit the giving of any exhibition or any dramatic performance, pantomime, circus, carnival, exhibition, dance or other similar show for public recreation or amusement, in any theatre or institute which is the property of Government where the exhibition, performance, pantomime, circus, carnival, exhibition, dance or other similar show for public recreation or amusement, is held with the permission and under the control of the military authorities.

Discharging
fire-works,
fire-arms, etc.

296. Whoever in a cantonment discharges any fire-arm or lets off fire-works or fire-balloons, or detonates or engages in any game or carries on works such as quarries, blasts, timber cutting or building operation in such manner as to cause or to be likely to

cause danger to persons passing by or dwelling or working in the neighbourhood or risk of injury to property shall be liable to fine which may extend to two thousand five hundred rupees.

297. Where in a cantonment any building, or wall, or anything affixed thereto, or any well, tank, reservoir, pool, depression, or excavation, or any bank or tree, is in the opinion of the Chief Executive Officer, in a ruinous state or for want of sufficient repairs, protection or enclosure, a nuisance or dangerous to persons passing by or dwelling or working in the neighbourhood, the Chief Executive Officer, by notice in writing may, require the owner, or part-owner or person claiming to be the owner or part-owner thereof, or, failing any of them, the occupier, thereof, to remove the same or may require him to repair, or to protect or to enclose, the same in such manner as he thinks necessary; and, if the danger is, in the opinion of the Chief Executive Officer, imminent, he shall forthwith take such steps as he thinks necessary to avert the same.

Power to require buildings, wells, etc. to be rendered safe.

298. The Chief Executive Officer may, by notice in writing, require the owner or part-owner, or person claiming to be the owner or part-owner, of any building or land in the cantonment, or the lessee or the person claiming to be the lessee of any such land, which, by reason of disuse or disputed ownership or other cause, has remained unoccupied and has become the resort of idle and disorderly persons or of persons who have no ostensible means of subsistence or cannot give a satisfactory account of themselves, or is used for gaming or immoral purposes, or otherwise occasions or is likely to occasion a nuisance, to secure and enclose the same within such time as may be specified in the notice.

Enclosure of wasteland used for improper purposes.

CHAPTER XIV

REMOVAL AND EXCLUSION FROM CANTONMENT AND SUPPRESSION OF SEXUAL IMMORALITY

299. The Officer Commanding the Station or the Board may, on receiving information that any building in the cantonment is used as a brothel or for purposes of prostitution, by order in writing setting forth the substance of information received, summon the owner, lessee, tenant or occupier of the building to appear before him or the Board as the case may be either in person or by an authorised agent, and, if the Officer Commanding the Station or the Board, is then satisfied as to the truth of the information, may, by order in writing, direct the owner, lessee, tenant or occupier, as the case may be, to discontinue such use of the building within such period as may be specified in the order.

Power to remove Brothels and Prostitutes.

300. (1) Whoever in a cantonment loiters for the purpose of prostitution or importunes any person to the commission of sexual immorality, shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five thousand rupees and in case of subsequent offence shall be punishable with imprisonment which may extend to one year.

Penalty for loitering and importuning for purposes of prostitution.

(2) No prosecution for an offence under this section shall be instituted except on the complaint of the person importuned, or of a military officer in whose presence the offence was committed, or of a member of the Military, Naval or Air Force Police, being employed in the cantonment and authorised in this behalf by the Officer Commanding the Station, in whose presence the offence was committed, or of a Police Officer not below the rank of Assistant Sub-Inspector, who is deployed in the cantonment and authorised in this behalf by the Officer Commanding the Station with the concurrence of District Magistrate.

301. If the Officer Commanding the Station or the Board is, after such inquiry as he or it thinks necessary, satisfied that any person residing in or frequenting the cantonment is a prostitute or has been convicted of an offence, under section 300, or of the abetment of such an offence he or, as the case may be, the Board may cause to be served on such person an order in writing requiring such person to remove from the cantonment within such time as may be specified in the order, and prohibiting such person from re-entering it without the permission in writing of the Officer Commanding the Station or the Board.

Removal of persons from cantonment.

Removal and
exclusion from
cantonment of
disorderly
persons.

302. (1) A Judicial Magistrate of the First Class, having jurisdiction in a cantonment, on receiving information that any person residing in or frequenting the cantonment—

(a) is a disorderly person who has been convicted more than once of gaming or who keeps or frequents, a common gaming house, a disorderly drinking shop or a disorderly house of any other description; or

(b) has been convicted more than once either within the cantonment or elsewhere, of an offence punishable under chapter XVII of the Indian Penal Code; or

45 of 1860.

(c) has been ordered under chapter VIII of the Code of Criminal Procedure, 1973, either within the cantonment or elsewhere to execute a bond for his good behaviour,

2 of 1974.

may record in writing the substance of the information received, and may issue a summons to such person requiring him to appear and show cause why he should not be required to remove from the cantonment and be prohibited from re-entering it.

(2) Every summons issued under sub-section (1) shall be accompanied by a copy of the record aforesaid and the copy shall be served along with the summons on the person against whom the summons is issued.

(3) The Magistrate shall, when the person so summoned appears before him, proceed to inquire into the truth of the information received and take such further evidence as he thinks fit, and if upon such inquiry it appears to him that such person is a person of any kind described in sub-section (1) and that it is necessary for the maintenance of good order in the cantonment that such person should be required to remove therefrom and be prohibited from re-entering the cantonment, the Magistrate shall report the matter to the Officer Commanding the Station and, if the Officer Commanding the Station so agrees shall cause to be served on such person an order in writing requiring him to remove from the cantonment within such time as may be specified in the order and prohibiting him from re-entering it without the permission in writing of the Officer Commanding the Station.

Removal and
exclusion from
cantonment of
seditious
persons.

303. (1) If any person in a cantonment causes or attempts to cause or does any act which he knows is likely to cause disloyalty; disaffection or breach of discipline amongst any portion of the forces or is a person who, the Officer Commanding the Station has reason to believe, is likely to do any such act, the Officer Commanding the Station may make an order in writing setting forth the reasons for making of the same and requiring such person to remove from the cantonment within such time as may be specified in the order and prohibiting him from re-entering it without the permission in writing of the Officer Commanding the Station:

Provided that no order shall be made under this section against any person unless he has had a reasonable opportunity of being informed of the grounds on which it is proposed to make the order and of showing cause why the order should not be made.

(2) Every order made under sub-section (1) shall be sent to the Superintendent of Police of the District, who shall cause a copy thereof to be served on the person concerned.

(3) Upon the making of any order under sub-section (1), the Officer Commanding the Station shall forth with send a copy of the same to the Central Government.

(4) The Central Government may of its own motion and shall on application made to it in this behalf within one month of the date of the order by the person against whom the order has been made, call upon the District Magistrate to make after such inquiry as the Central Government may prescribe a report regarding the justice of the order and the necessity therefore:

Provided that at every such inquiry the person against whom the order has been made shall be given an opportunity of being heard in his own defence.

(5) The Central Government may, at any time after the receipt of the copy of an order sent under sub-section (3) or where a report has been called for under sub-section (4) on receipt of that report, if it is of opinion that the order shall be varied or rescinded, make such orders thereon as it thinks fit.

(6) Any person who has been excluded from a cantonment by an order made under this section may, at any time after the expiry of one month from the date thereof, apply to the General Officer Commanding-in-Chief, the Command for the rescission of the same and, on such application being made, the said Officer may, after making such inquiry, if any, as he thinks necessary, either reject the application or rescind the order.

304. Whoever –

Penalty.

(a) fails to comply with an order issued under this Chapter within the period specified therein or whilst an order prohibiting him from re-entering a cantonment without permission is in force, re-enters the cantonment without such permission; or

(b) knowing that any person has, under this Chapter been required to remove from the cantonment and has not obtained the requisite permission to re-enter it, harbours or conceals such person in the cantonment,

shall be punishable with fine which may extend to five thousand rupees and in case of continuing offence with an additional fine which may extend to five hundred rupees for every day after the first during which he has persisted in the offence.

CHAPTER XV

MANAGEMENT OF DEFENCE LANDS

305. (1) The Central Government may make suitable provisions for the regulation, control and management of any defence land situated throughout the territory of India.

Management of Defence Lands.

(2) Without prejudice to the generality of the foregoing powers, the Central Government may after previous publication, make rules to provide for all or any of the following matters, namely :—

(a) classification of land including the defence land situated, inside or outside cantonments;

(b) the regulation, control and management of such lands inside or outside the cantonment;

(c) the manner in which, and the conditions subject to which any permission to occupy the defence land belonging to the Central Government in a cantonment shall be granted;

(d) the manner in which, and the conditions subject to which any permission to occupy the defence land belonging to the Central Government outside a cantonment shall be granted; and

(e) any other matter which is required to be, or may be, prescribed.

306. The Central Government may, by notification, apply with or without modifications all or any of the provisions of this Act to any defence land situated throughout the territory of India.

Application of Act to Defence Lands.

Explanation.—For the purposes of this Act, “defence land” means—

(i) any land including the lands, within and outside the cantonment, which have been vested in terms of articles 294 and 295 of the Constitution for defence or acquired or hired or requisitioned or acquired by any other means by the Central Government for the purposes of defence and other related purposes; and

(ii) any defence land, which might have been occupied by any individual or organisation, under a lease or any other dispensation whether in force presently or not, shall continue to be the defence land irrespective of the period for which these had been occupied and of the fact that they have not reverted back to the Central Government after the efflux of time.

Vesting of
land in a
Board.

307. The Central Government may vest any defence land, whether inside or outside a cantonment, in a Board for such purposes and under such terms and conditions as may be prescribed.

Role of
Defence
Estates Officer
and Local
Military
Authorities.

308. (1) The Defence Estates Officer shall be the agent of the Central Government in matters relating to management, control and development of defence land inside or outside the cantonments.

(2) the duties of the Defence Estates Officer shall include,—

(a) preparation, maintenance and updation of records of all lands situated inside or outside a cantonment;

(b) carrying out such other duties and responsibilities as may be entrusted to him under this Act or rules made thereunder;

(c) advising the concerned military authorities, within his defence estates circle on all land matters;

(d) periodic inspection of defence lands within his defence estates circle, with regard to the usage of the said lands and submission of a preliminary report to the concerned local military authority and a final report to the Central Government through the Principal Director and Director General Defence Estates incorporating therein views of the local military authorities based on such inspection:

Provided that in respect of the civil area in a cantonment, as declared under section 46 of the Act and other lands vested in the management of the Board, his responsibilities shall be limited to the maintenance of the land records.

(3) subject to the rules made in this regard, the authority to whom the custody, control and use of defence land is given shall be the authority responsible for prevention, detection and removal of encroachment or any other misuse of the defence land placed under its custody.

Land audit.

309. All defence lands, within or outside a cantonment shall be audited by the Defence Estates Officer in a manner and the periodicity that may be prescribed under the rules:

Provided that the Central Government or the Director General may additionally authorise any officer of the Defence Estates Organisation to carry out a special audit of Defence Land anywhere in the country.

CHAPTER XVI

POWERS, PROCEDURES, PENALTIES AND APPEALS

Entry and inspection

Powers of
entry.

310. It shall be lawful for the President or the Vice-President of a Board, or the Chief Executive Officer, or the Health Officer or any person specially authorised by the Chief Executive Officer, or the Health Officer or for any other person authorised by general or special order of a Board in this behalf, to enter into or upon any building or land with or without assistants or workmen in order to make any inquiry, inspection, measurement, valuation or survey, or to execute any work, which is authorised by or under this Act or which it is necessary to make or execute for any of the purposes or in pursuance of any of the provisions of this Act or of any rule, bye-law or order made thereunder:

Provided that nothing in this section shall be deemed to confer upon any person any power such as is referred to in section 274 or section 283 or to authorise the conferment upon any person of any such power.

311. A Board may by special order authorise or order any member to inspect any work or institution constructed or maintained, in whole or part at the expense of the Board, and any register, book accounts or other documents belonging to, or in the possession of, the Board.

Power of inspection by Member of a Board.

312. (1) A Board or the Chief Executive Officer may, by general or special order, authorise any person—

Power of inspection, etc.

(a) to inspect any drain, privy, latrine, urinal, cesspool, pipe, sewer or channel in or on any building or land in the cantonment, and, in his discretion, to cause, the ground to be opened for the purpose of preventing or removing any nuisance arising from the drain, privy, latrine, urinal, cesspool, pipe, sewer or channel, as the case may be;

(b) to examine works under construction in the cantonment, to take levels or to remove, test, examine, replace or read any meter.

(2) If, on such inspection, the opening of the ground is found to be necessary for the prevention or removal of a nuisance, the expenses thereby incurred shall be paid by the owner or occupier of the land or building, but if it is found that no nuisance exists or but for such opening would have arisen, the ground or portion of any building, drain or other work opened, injured or removed for the purpose of such inspection shall be filled in, reinstated, or made good, as the case may be by the Board or the Chief Executive Officer.

313. (1) The Chief Executive Officer of a cantonment may, with or without assistants or workmen, enter on any land within fifty yards of any work authorised by or under this Act for the purpose of depositing thereon any soil, gravel, stone or other materials, or of obtaining access to such work, or for any other purpose connected with the carrying on of the same.

Power to enter land, adjoining land where work is in progress.

(2) The Chief Executive Officer shall, before entering on any land under sub-section (1), give the occupier, or, if there is no occupier, the owner not less than three day's previous notice in writing of his intention to make such entry, and shall state the purpose thereof, and shall, if so required by the occupier or owner, fence off so much of the land as may be required for such purpose.

(3) The Chief Executive Officer shall, in exercising any power conferred by this section, do as little damage as may be, and compensation shall be payable by the Board to the owner or occupier of such land, or to both, for any such damage whether permanent or temporary.

314. It shall be lawful for any person, authorised by or under this Act to make any entry into any place, to open or cause to be opened any door, gate or other barrier—

Breaking into premises.

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

315. Save as otherwise expressly provided in this Act, no entry authorised by or under this Act shall be made except between the hours of sunrise and sunset.

Entry to be made in the day time.

316. Save as otherwise expressly provided in this Act, no building or land shall be entered without the consent of the occupier, or if there is no occupier of the owner thereof, and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than four hours, written notice of the intention to make such entry:

Owner's consent ordinarily to be obtained.

Provided that no such notice shall be necessary if the place to be inspected is a factory or workshop or trade premises or a place used for carrying on any trade, calling or occupation specified in section 277 or a stable for horses or a shed for cattle or a latrine, privy or urinal or a work under construction, or for the purpose of ascertaining whether any animal intended for human food is slaughtered in that place in contravention of this Act or any bye-law made thereunder.

Regard to be
had to social
and religious
usages.

317. When any place used as a human dwelling is entered under this Act, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

Penalty for
obstruction.

318. Whoever obstructs or molests any person acting on behalf of the Board, who is not a public servant within the meaning of section 21 of the Indian Penal Code or any person with whom the Board has lawfully contracted, in the execution of his duty or of anything which he is empowered or required to do by virtue or in consequence of any of the provisions of this Act or any rule, bye-law or order made thereunder, or in fulfilment of his contract, as the case may be, shall be punishable with fine which may extend to five thousand rupees

45 of 1860.

Powers and duties of police officers

Arrest without
warrant

319. Any member of the police force employed in a cantonment may, without a warrant, arrest any person committing in his view a breach of any of the provisions of this Act which are specified in Schedule IV :

Provided that—

(a) in the case of a breach of any such provisions as is specified in Part B of Schedule IV, no person shall be so arrested who consents to give his name and address, unless there is reasonable ground for doubting the accuracy of the name or address so given, the burden of proof of which shall lie on the arresting officer, and no person so arrested shall be detained after his name and address have been ascertained; and

(b) no person shall be so arrested for an offence under section 300 except —

(i) at the request of the person importuned, or of a military officer in whose presence the offence was committed; or

(ii) by or at the request of a member of the Military, Naval or Air Force Police, who is employed in the cantonment and authorised in this behalf by the Officer Commanding the Station, and in whose presence the offence was committed or by or at the request of any police officer not below the rank of assistant sub-inspector who is deployed in the cantonment and authorised in this behalf by the Officer Commanding the station.

Duties of
Police
Officers.

320. It shall be the duty of all police officers to give immediate information to the Board of the commission of, or attempt to commit any offence against the provisions of this Act or of any rule or bye-law made thereunder, and to assist all cantonment officers and employees in the exercise of their lawful authority.

Notices

Notices to fix
reasonable
time.

321. Where any notice, order or requisition made under this Act or any other rule or bye-law made thereunder requires anything to be done for the doing of which no time is fixed in this Act or in the rule or bye-law, the notice, order or requisition shall specify a reasonable time for doing the same.

Authentication
and validity of
notices issued
by Board.

322. (1) Every notice, order or requisition issued by a Board under this Act or any rule or bye-law made thereunder shall be signed—

(a) either by the President of the Board or by the Chief Executive Officer; or

(b) by the members of any committee especially authorised by the Board in this behalf.

(2) Whenever under this Act or any rule or bye-law made thereunder the doing of, or the omission to do, any thing or the validity of anything depends upon the approval, sanction,

consent, concurrence, declaration, opinion or satisfaction of the Board, a written document signed by any officer or member specified in sub-section (1) purporting to convey or set forth such approval, sanction, consent, concurrence, declaration, opinion or satisfaction shall be sufficient evidence thereof.

(3) Every license, written permission, notice, bill summons or other document which is required by this Act or any rule or bye-law made thereunder to bear the signature of the President, Vice President or the Chief Executive Officer, or of any such member of any committee as has been specially authorised by the Board in this behalf shall be deemed to be properly signed if it bears facsimile of the signature of any such officer or member, as the case may be, stamped thereon.

323. (1) Every notice, order or requisition issued under this Act or any rule or bye-law made thereunder shall, save as otherwise expressly provided, be served or presented—

Service of
notice, etc.

(a) by giving or tendering the notice, order or requisition, or sending it by post, to the person for whom it is intended; or

(b) if such person cannot be found, by affixing the notice order or requisition on some conspicuous part of his last known place of abode or business if within the cantonment, or by giving or tendering the notice, order or requisition to some adult member or servant or his family, or by causing it to be affixed on some conspicuous part of the buildings or land, if any, to which it relates.

(2) When any such notice, order or requisition is required or permitted to be served upon an owner, lessee or occupier of any building or land, it shall not be necessary to name the owner, lessee or occupier therein, and the service thereof shall, save as otherwise expressly provided, be effected either—

(a) by giving or tendering the notice, order or requisition, or sending it by post, to the owner, lessee or occupier, or, if there are more owners, lessees, or occupiers than one to any one of them; or

(b) if no such owner, lessee or occupier can be found, by giving or tendering the notice, order or requisition to the authorised agent if any of any such owner, lessee or occupier, or to an adult member or servant of the family of any such owner, lessee, occupier, or by causing it to be affixed on some conspicuous part of the building or land to which it relates.

(3) When the person on whom a notice, order or requisition is to be served is a minor, service upon his guardian or upon an adult member or servant of his family shall be deemed to be service upon the minor.

324. Every notice which, by or under this Act, is to be given or served as a public notice or as a notice which is not required to be given to any individual therein specified shall, save as otherwise expressly provided, be deemed to have been sufficiently given or served if a copy thereof is affixed in such conspicuous part of the office of the Board or in such other public place during such period, or is published in such local news paper or in such other manner, as the Board may direct.

Method of
giving notice.

325. In the event of non-compliance with the terms of any notice, order or requisition issued to any person under this Act or any rule or bye-law made thereunder, requiring such person to execute any work or to do any act, it shall be lawful for the Board, or the civil area committee or the Chief Executive Officer at whose instance the notice, order or requisition has been issued whether or not the person in default is liable to punishment for such default or has been prosecuted or sentenced to any punishment therefor, after giving notice in writing to such person, to take such action or such steps as may be necessary for the completion of the act or work required to be done or executed by him, and all the expenses incurred on such account shall be recoverable by the Chief Executive Officer on demand, and if not paid within ten days after such demand, shall be recoverable in the same manner as moneys recoverable by the Board under section 329:

Powers of
Board in case
of non-
compliance
with notice,
etc.

Provided that where the action or step relates to the demolition of any erection or re-erection under section 248 or the removal of any projection or encroachment under section 252 the Board or the civil area committee or the Chief Executive Officer may request any police officer to render such assistance as considered necessary for the lawful exercise of any power in this regard and it shall be the duty of such police officer to render forthwith such assistance on such requisition.

Occupier not to obstruct owner when complying with notice.

326. If the owner of any property in respect of which a notice as is referred to in section 325 has been given is prevented by the occupier from complying with the such notice, the Board or civil area committee or the Chief Executive Officer at whose instance such notice has been given, may, by order, require the said occupier to permit the owner within eight days from the date of service of such notice to take all such actions as may be necessary to comply with the said notice and such owner shall, for the period during which he is prevented as aforesaid, be exempt from any fine or penalty to which he might otherwise have become liable by reason of non-compliance with such notice.

Recovery of Money

Liability of occupier to pay in default of owner.

327. (1) If any such notice as is referred to in section 325 has been given to any person in respect of property of which he is the owner, the Board or the civil area committee or the Chief Executive Officer at whose instance such notice has been issued may require any occupier of such property or of any part thereof to pay to it or him instead of to the owner any rent payable by him in respect of such property, as it falls due, up to the amount recoverable from the owner under section 325:

Provided that if the occupier, on application made to him by the Board or the civil area committee or the Chief Executive Officer at whose instance such notice has been issued, refuses to truly disclose the amount of his rent or the name or address of the person to whom it is payable the Chief Executive Officer may recover from the occupier the whole amount recoverable under section 325 in the same manner as money is recoverable by the Board under section 329.

(2) Any amount recovered from an occupier instead of from an owner under subsection (1) shall, in the absence of any contract between the owner and the occupier to the contrary, be deemed to have been paid to the owner.

Relief to Agents and Trustees.

328. (1) Where any person, by reason of his receiving the rent of immovable property as an agent or trustee, or of his being as an agent or trustee the person who would receive the rent if the property were let to a tenant, would under this Act be bound to discharge any obligation imposed on the owner of the property for the discharge of which money is required, he shall not be bound to discharge the obligation unless he has or but for his own improper act or default might have had funds in his hands belonging to the owner sufficient for the purpose.

(2) The burden of proving any fact entitling an agent or trustee to relief under subsection (1) shall lie upon him.

(3) Where any agent or trustee has claimed and established his right to relief under this section, the Board may, by notice in writing, require him to apply to the discharge of such obligation as aforesaid the first monies which may come to his hands on behalf, or for the use, of the owner and on failure to comply with the notice, he shall be deemed to be personally liable to discharge the obligation.

Method of recovery.

329. (1) Notwithstanding anything elsewhere contained in this Act arrears of any tax, and any other money recoverable, including rent on land and buildings due or damages and fine due under leases or licences executed by or in favour of a Board or the Defence Estates Officer under this Act or the rules made thereunder may be recovered together with the cost of recovery either by suit or on application to a Judicial Magistrate having jurisdiction in the cantonment or in any place where the person from whom such tax, rent or money is recoverable may for the time being be residing, either by the

distress and sale of movable property of such person, or by the attachment and sale of immovable property of that person, which is within the limits of the jurisdiction of such Judicial Magistrate, or by both these methods, and shall, if payable by the owner of any property as such, be a charge on the property until paid :

Provided that the tools of artisans, growing crops upto the value of five thousand rupees and implements and cattle used for the purposes of agriculture shall be exempt from such distress or sale.

(2) An application to a Judicial Magistrate under sub-section (1) shall be in writing and shall be signed by the President or Vice-President of the Board or by the Chief Executive Officer or the Defence Estates Officer or the Officer Commanding the Station or any other officer authorised by any of these officers, but shall not require to be personally presented.

(3) Upon receiving the application, the Judicial Magistrate referred to in sub-section (1) may take action for the recovery of the amount of tax, rent or money from the person specified in the application as if such amount were a fine recoverable under a sentence passed by him and the provisions of sections 421 and 422 of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to the recovery of such amount:

2 of 1974.

Provided that the recovery of no such amount shall be made by the arrest or detention in prison of the said person.

Committees of Arbitration

330. In the event of any disagreement as to the liability of a Board to pay any compensation under this Act, or as to the amount of any compensation so payable, the person claiming such compensation may apply to the Board shall for the reference of the matter to a Committee of Arbitration, and the Board shall forthwith proceed to convene a Committee of Arbitration to determine the matter in dispute.

Application for
a Committee of
Arbitration.

331. When a Committee of Arbitration is to be convened, the Board shall cause a public notice to be published stating the matter to be determined, and shall forthwith send copies of the order to the District Magistrate, and to the other party concerned, and shall, as soon as may be, nominate such members of the Committee as it is entitled to nominate under section 332, and by notice in writing call upon the other persons who are entitled to nominate a member or members of the Committee to nominate such member or members in accordance with provisions of that section.

Procedure for
convening
Committee of
Arbitration.

332. (1) Every Committee of Arbitration shall consist of five members, namely:—

(a) a Chairman who shall be a person not in the service of the Government or the Board, and who shall be nominated by the Officer Commanding the Station;

(b) two persons nominated by the Board;

(c) two persons nominated by the other party concerned.

Constitution of
the Committee
of Arbitration.

(2) If the Board or the other party concerned or the Officer Commanding the Station fails within seven days of the date of issue of the notice referred to in section 331 to make any nomination which it or he is entitled to make or if any member who has been so nominated neglects or refuses to act and the Board or other person by whom such member was nominated fails to nominate another member in his place within seven days from the date on which it or he may be called upon to do so by the District Magistrate, the District Magistrate shall forthwith appoint a member or members, as the case may be, to fill the vacancy or vacancies.

333. (1) No person who has a direct interest in the matter under reference, or whose services are not immediately available for the purposes of the Committee shall be nominated a member of the Committee of Arbitration.

(2) If, in the opinion of the District Magistrate any person who has been nominated has a direct interest in the matter under reference or is otherwise disqualified for nomination or if the services of any such person are not immediately available as aforesaid and if the

No person to
be nominated
who has direct
interest or
whose services
are not
immediately
available.

Board or the other person by whom any such person was nominated fails to nominate another member within seven days from the date on which it or he may be called upon to do so by the District Magistrate, such failure shall be deemed to constitute a failure to make a nomination within the meaning of section 332.

Meetings and powers of Committee of Arbitration.

334. (1) When a Committee of Arbitration has been duly constituted, the Board shall, by notice in writing inform each of the members of the fact, and the Committee shall meet as soon as may be thereafter.

(2) The Chairman of the Committee shall fix the time and place of the meetings and shall have power to adjourn any meeting from time to time as may be necessary.

(3) The Committee shall receive and record evidence, and shall have power to administer oaths to witnesses, and on requisition in writing signed by the Chairman of the Committee, the District Magistrate shall issue the necessary processes for the attendance of witnesses and the production of documents required by the Committee and may, enforce the said processes as if they were processes for attendance or production before himself.

Decisions of Committee of Arbitration.

335. (1) The decisions of every Committee of Arbitration shall be in accordance with the majority of votes taken at a meeting at which the Chairman and at least three of the other members are present.

(2) If there is not a majority of votes in favour of any proposed decision, the opinion of the Chairman shall prevail.

(3) The decision of a Committee of Arbitration shall be final and shall not be questioned in any court.

Prosecutions

Prosecutions.

336. Save as otherwise expressly provided in this Act, no court shall proceed to the trial of any offence made punishable by or under this Act, other than an offence specified in Schedule IV, except on the complaint of or upon information received from the Board concerned or a person authorised by the Board by a general or special order in this behalf.

Composition of offence.

337. (1) The Chief Executive Officer or any person authorised by him, by general or special order in this behalf, may, either before or after the institution of the proceedings, compound an offence, made punishable by or under this Act other than an offence under Chapter XIV :

Provided that no offence shall be compoundable which is committed by failure to comply with a notice, order or requisition issued by or on behalf of the Chief Executive Officer, unless and until the same has been complied with in so far as compliance is possible.

(2) Where an offence has been compounded, the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

General Penalty Provisions

General penalty.

338. Whoever, in any case in which a penalty is not expressly provided by this Act, fails to comply with any notice, order or requisition issued under any provision thereof, or otherwise contravenes any of the provisions of this Act, shall be punishable with fine which may extend to five thousand rupees, and, in the case of a continuing failure or contravention, with an additional fine which may extend to five hundred rupees for everyday after the during which he has persisted in the failure or contravention.

Offences by companies.

339. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

340. Where any person to whom a licence or written permission has been granted under this Act or any agent or servant of such person commits a breach of any of the conditions thereof, or of any bye-law made under this Act for the purpose of regulating the manner or circumstances in, or the conditions subject to, which anything permitted by such licence or written permission is to be or may be done, or where the Board or the civil area committee, as the case may be, is satisfied that such licence or written permission has been secured by the holder through misrepresentation or fraud, the Board or the civil area committee, as the case may be, may, without prejudice to any other penalty which may have been incurred under this Act, by order in writing, cancel the licence or written permission or suspend it for such period as it thinks fit :

Cancellation or suspension of licences, etc.

Provided that no such order shall be made unless an opportunity has been given to the holder of the licence or written permission to show cause why it should not be made.

341. Where any person has incurred a penalty by reason of having caused any damage to the property of a Board, he shall be liable to make good such damage, and the amount payable in respect of the damage shall, in case of dispute, be determined by the Judicial Magistrate by whom the person incurring such penalty is convicted, and, on non-payment of such amount on demand, the same shall be recovered either by the distress and sale of the movable property of such person, or by the attachment and sale of the immovable property of that person, or by both these methods and the Judicial Magistrate shall recover the amount in accordance with the provisions of sections 421 and 422 of the Code of Criminal Procedure, 1973 as if it were a fine recoverable under a sentence passed by him.

Recovery of amount payable in respect of damage to cantonment property.

2 of 1974.

Limitation

342. No court shall try any person for an offence made punishable by or under this Act, after the expiry of six months from the date of the commission of the offence, unless complaint in respect of the offence has been made to a Judicial Magistrate within the six months aforesaid.

Limitation for prosecution.

Suits

343. No suit or prosecution shall be entertained in any court against a Board or against the Chief Executive Officer, the Officer Commanding a station, Defence Estates Officer, Principal Director, General Officer Commanding in Chief, the Command, Director General Defence Estates, or against any member of a Board, or against any officer or employee of a Board, for anything which is in good faith done or intended to be done, under this Act or any rule or bye-law made thereunder.

Protection of action of Board, etc.

344. (1) No suit shall be instituted against any Board or against any member of a Board, or against any officer or employee of a Board, in respect of any act done, or purporting to have been done, in pursuance of this Act or of any rule or bye-law made thereunder, until

Notice to be given of suits.

the expiration of two months after notice in writing has been left at the office of the Board, and, in the case of such member, officer or employee, unless notice in writing has also been delivered to him or left at his office or place of abode, and unless such notice states explicitly the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of abode of the intending plaintiff, and unless the plaint contains a statement that such notice has been so delivered or left.

(2) If the Board or member, officer or employee has, before the suit is instituted, tendered sufficient amounts to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered, and shall also pay all costs incurred by the defendant after such tender.

(3) No suit, such as is described in sub-section (1), shall, unless it is an action for the recovery of immovable property or for a declaration of title thereto, be instituted after the expiry of six months from the date on which the cause of action arises.

(4) Nothing in sub-section (1) shall be deemed to apply to a suit in which the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the institution of the suit or proceeding.

Appeals and Revision

Appeals from
executive
orders.

345. (1) Any person aggrieved by any order described in the third column of Schedule V may appeal to the appellate authority specified in that behalf in the fourth column of the said Schedule.

(2) No such appeal shall be admitted if it is made after the expiry of the period specified in that behalf in the fifth column of the said Schedule.

(3) The period specified as aforesaid shall be computed in accordance with the provisions of the Limitation Act, 1963, with respect to the computation of periods of limitation thereunder. 36 of 1963

Petition of
Appeal.

346. (1) Every appeal under section 345 shall be made by petition in writing accompanied by a copy of the order appealed against.

(2) Any such petition may be presented to the authority which made the order against which the appeal is made, and that authority shall be bound to forward it to the appellate authority, and may attach thereto any report which it may desire to make by way of explanation.

Suspension of
Action
Pending
Appeal.

347. On the admission of an appeal from an order, other than an order contained in a notice issued under section 144, section 183, section 238, section 273 or section 302, where the appellate authority so directs, all proceedings to enforce the order and all prosecutions for any contravention thereof shall be held in abeyance pending the decision of the appeal, and, if the order is set aside on appeal, disobedience thereto shall not be deemed to be an offence.

Revision.

348. (1) Where an appeal from an order made by the Board has been disposed of by the District Magistrate, either party to the proceedings may within thirty days from the date thereof, apply through the General Officer Commanding-in-Chief, the Command to the Central Government, or to such authority as the Central Government may appoint in this behalf for revision of the decision.

(2) The provisions of this Chapter with respect to appeals shall apply as far as may be to the applications for revision made under this section.

(3) The appellate authority shall make endeavours to dispose of the appeal made under section 345 of this Act within a period of ninety days.

Finality of the
Appellate
Orders.

349. Save as otherwise provided in section 348, every order of appellate authority shall be final.

350. No appeal shall be decided under this Chapter unless the appellant has been heard, or has had a reasonable opportunity of being heard in person or through a legal practitioner.

Right of appellant to be heard.

CHAPTER XVII

RULES AND BYE-LAWS

351. (1) The Central Government may, after previous publication, make rules to carry out the purposes and objects of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;

(b) the authority by which such permission may be granted and the conditions to be annexed to the grant of any such permission;

(c) the allotment to a Board of a share of the rents and profits accruing from property entrusted to its management under the provisions of section 63;

(d) the appointment, promotion, transfer, tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence, discipline and other condition of service of employees of Boards;

(e) the circumstances in which security shall be demanded from employees of Boards and the amount and nature of such security;

(f) the keeping of accounts by Boards and the manner in which, such accounts shall be audited and published;

(g) the definition of the persons by whom, and the manner in which, money may be paid out of a cantonment fund or cantonment development fund;

(h) the preparation of estimates of income and expenditure by Boards and the definition of the persons by whom, and the conditions subject to which, such estimates may be sanctioned;

(i) the regulation of the procedure of Committees of Arbitration;

(j) the prescribing of registers, statements and forms to be used and maintained by any authority for the purposes of this Act;

(k) the grant of leave to the members of the Board;

(l) the form of notice required to be sent under this Act and the manner of their service; and

(m) any other matter which is required to be, or may be prescribed.

352. (1) A rule under section 351 may be made either generally for all cantonments or defence estates for the whole or any part of any one or more cantonments or defence estates.

Supplemental provisions respecting rules.

(2) The power to make rules under clause (c) of sub-section (2) of section 351 shall include power to give retrospective effect from a date not earlier than the date of commencement of the Cantonments Act, 2003, to the rules or any of them but no retrospective effect shall be given to any rule so as to prejudicially affect the interests of any person to whom such rule may be applicable :

Provided that where any rule has to be given retrospective operation, the reasons therefor and the effect of giving such retrospective operation shall be published along with the draft of the rules when such draft is published for eliciting public opinion under sub-section (1) of section 351.

(3) All rules made under this Act shall be published in the Official Gazette and in such other manner, if any, as the Central Government may direct and, on such publication, shall have effect as if enacted in this Act.

(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make
bye-laws.

353. Subject to the provisions of this Act and of the rules made thereunder a Board may, in addition to any bye-laws which it is empowered to make by any other provision of this Act, make bye-laws to provide for all or any of the following matters in the cantonment, namely :—

- (1) the registration of births, deaths and marriages, and the taking of a census;
- (2) the enforcement of compulsory vaccination and inoculation and levy of fees where such vaccination or inoculation is carried out at the houses of residents;
- (3) the regulation of the collection and recovery of taxes, tolls and fees under this Act and the refund of taxes;
- (4) the regulation of any description of traffic in the streets and the enforcement of measures for the reduction of noise caused thereby or the prohibition of any description of such traffic;
- (5) the manner in which vehicles standing, driven, led or propelled in the streets between sunset and sunrise shall be lighted;
- (6) the seizure and confiscation of ownerless animals straying within the limits of the cantonments and regulation and control of cattle pounds;
- (7) the prevention and extinction of fire;
- (8) the construction of scaffolding for building operations to secure the safety of the general public and persons working thereon;
- (9) the regulation in any manner not specifically provided for in this Act of the construction, alteration, maintenance, preservation, cleaning and repairs of drains, ventilation-shafts, pipes, water-closets, privies, latrines, urinals, cesspools and other drainage works;
- (10) the regulation or prohibition of the discharge into, or deposit in, drains of sewage, polluted water and other offensive or obstructive matter;
- (11) the regulation or prohibition of the stabling or herding of animals, or of any class of animals, so as to prevent danger to public health;
- (12) the proper disposal of corpses, the regulation and management of burial and burning places and other places for the disposal of corpses, and the fees chargeable for the use of such places where the same are provided or maintained by Government or at the expense of the cantonment fund;
- (13) the permission, regulation or prohibition of the use or occupation of any street or place by itinerant vendors or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall, and the fees chargeable for such use or occupation;
- (14) the regulation and control of encamping grounds, sarais, hotels, dak-bungalows, lodging-houses, boarding-houses, buildings let in tenements, residential clubs, restaurants, eating-houses, cafes, refreshment-rooms, guest houses, holiday resorts, cinemas and places of public recreation, entertainment or resort;

(15) the regulation of the ventilation, lighting, cleansing, drainage and water-supply of the buildings used for the manufacture or sale of aerated or other potable waters and of butter, milk, sweetmeats and other articles of food or drink for human consumption;

(16) the matters regarding which conditions may be imposed by licences granted under section 295 or section 277;

(17) the control and supervision of places where dangerous or offensive trades are carried on so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effects arising or likely to arise therefrom;

(18) the regulation of the erection of any enclosure, fence, tent, awning or other temporary structure of whatsoever material or nature on any land situated within the cantonment and the fees chargeable in respect thereof;

(19) the laying out of streets, and the regulation and prohibition of the erection of buildings without adequate provision being made for the laying out and location of streets;

(20) the form of and the particulars which shall be contained in a development scheme or an improvement scheme and the manner in which such scheme shall be framed or altered and levy of development charges.

(21) the regulation of the use of public parks and gardens and other public places, and the protection of avenues, trees, grass and other appurtenances of streets and other public places;

(22) the regulation of the grazing of animals and the fees chargeable in respect thereof;

(23) the fixing and regulation of the use of public bathing and washing places;

(24) the regulation of the posting of bills and advertisement, and of the position, size, shape or style or name-boards, sign-boards and sign-posts;

(25) the fixation of a method for the sale of articles whether by measure, weight, piece or any other method;

(26) the rendering necessary of licences within the cantonment for—

(a) persons working as job porters for the conveyance of goods;

(b) animals or vehicles let out on hire or used for hawking articles;

(c) the proprietors of drivers of vehicles, boats or other conveyances, or of animals kept or plying for hire or used for hawking articles;

(d) persons impelling or carrying such vehicles or other conveyances; or

(e) persons practising as nurses, midwives or *dais*;

(27) the prescribing of the fee payable for any licence required under clause (26), and of the conditions subject to which such licences may be granted, revised, suspended or withdrawn;

(28) the regulation of the charges to be made for the services of such job porters and of the hire of such animals, vehicles or other conveyances, and for the remuneration of persons impelling or carrying such vehicles or conveyances as are referred to in clause (26);

(29) the prescribing of fee payable for any licence except as otherwise specifically provided in the Act, sanction or for any written permission granted by the Chief Executive Officer;

(30) the regulation or prohibition, for purposes of sanitation or the prevention of disease or the promotion of public safety or convenience, of any act which occasions or is likely to occasion a nuisance, and for the regulation or prohibition of which no provision is made elsewhere by or under this Act;

(31) the circumstances and the manner in which owners of buildings or land in the cantonment, who are temporarily absent from, or are not resident in, the cantonment, may be required to appoint as their agents, for all or any of the purposes of this Act of any rule or bye-law made thereunder, persons residing within or near the cantonment;

(32) the prevention of the spread of infectious or contagious diseases within the cantonment;

(33) the segregation in, or the removal and exclusion from, the cantonment, or the destruction, of animals suffering from or reasonably suspected to be suffering from any infectious or contagious disease;

(34) the supervision, regulation, conservation and protection from injury, contamination or trespass of sources and means of public water-supply and of appliances for the distribution of water whether within or without the limits of the cantonment;

(35) the manner in which connections with water-works may be constructed or maintained, and the agency which shall or may be employed for such construction and maintenance;

(36) the regulation of all matters and things relating to the supply and use of water including the collection and recovery of charges therefor and the prevention of evasion of the same;

(37) the maintenance of schools, and the furtherance of education generally;

(38) the regulation or prohibition of the cutting or destruction of trees or shrubs, or of the making of excavations, or of the removal of soil of quarrying, where such regulation or prohibition appears to the Board to be not prejudicial to the maintenance of ecological balance and to be necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of landscape or of the formation of ravines or torrents, or the protection of land against erosion, or against the deposit thereon of sand, gravel or stones;

(39) the rendering necessary of licences for the use of premises within the cantonment as stables, kennels, sites or cowhouses or as accommodation for sheep, goats or fowls;

(40) the control of the use in the cantonment of mechanical whistles, sirens or trumpets;

(41) the regulation of supply of copies of official document and prescribing the fee payable in respect thereof;

(42) the regulation of permission for granting licence for use of loud-speakers and prescribing the fee payable in respect thereof; and

(43) generally for the regulation of the administration of the cantonment under this Act.

Penalty for
breach of bye-
laws.

354. (1) Any bye-laws made by a Board under this Act may provide that a contravention thereof shall be punishable—

(a) with fine which may extend to five thousand rupees; or

(b) with fine which may extend to five thousand rupees and, in the case of a continuing contravention, with an additional fine which may extend to five hundred

rupees for every day during which such contravention continues after conviction for the first such contravention; or

(c) with fine which may extend to one hundred fifty rupees for every day during which the contravention continues after the receipt of a notice from the Board or Chief Executive Officer by the person contravening the bye-law requiring such person to discontinue such contravention.

(2) Any such bye-law may also provide that a person contravening the same shall be required to remedy, so far as lies in his power, the damage or mischief, if any, caused by such contravention.

355. (1) Any power to make bye-laws conferred by this Act is conferred subject to the conditions of bye-laws being made after previous publication and of their not taking effect until they have been approved and confirmed by the Central Government and published in the Official Gazette.

Supplemental provisions regarding bye-laws and regulations.

(2) The Central Government in confirming a bye-law may make any change therein which appears to it to be necessary.

(3) The Central Government may, after previous publication of its intention, cancel any bye-law which it has confirmed, and thereupon the bye-law shall cease to have effect.

(4) Every bye-law and Regulation made under this Act and every order made under sub-section (3) shall be laid as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the bye-law and Regulation, or order or both Houses agree that the bye-law and Regulation, or order should not be made, the bye-law and Regulation, or order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that bye-law and Regulation or order.

356. (1) A copy of all rules and bye-laws made under this Act shall be kept at the office of the Board and shall, during office hours, be open free of charge to inspection by any inhabitant of the cantonment.

Rules and bye-laws to be available for inspection and purchase.

(2) Copies of all such rules and bye-laws shall be kept at the office of the Board and shall be sold to the public at cost price singly, or in collection at the option of the purchaser.

CHAPTER XVIII SUPPLEMENTAL PROVISIONS

357. The Central Government may, by notification in the Official Gazette, and subject to any conditions as to compensation or otherwise which thinks fit to impose, extend to any area beyond a cantonment and in the vicinity thereof, with or without restriction or modification, any of the provisions of Chapters VIII to XVI or of any rule or bye-law made under this Act for the cantonment which relates to the subject-matter of any of those Chapters, and every enactment, rule or bye-laws so extended shall thereupon apply to that area as if the area were included in the cantonment.

Extension of certain provisions of the Act and rules to place beyond cantonments.

358. (1) The Board may, by a resolution passed in this behalf, delegate to the President, Vice-President, Chief Executive Officer or Health Officer, subject to such conditions, if any, as may be specified in the resolution, all or any of its functions under clause (b) of sub-section (5) of section 290, section 168, section 170, section 175 section 167, section 263 and section 264.

Power to delegate functions to the President, etc.

(2) The civil area committee may, by passing a similar resolution, delegate subject to such conditions, if any, as may be specified in such resolution, all or any of its functions to the Vice-President, Chief Executive Officer or Health Officer.

Registration.	<p>359. (1) Paragraphs 2 and 3 of section 54, and section 59, 107 and 123 of the Transfer of Property Act, 1882, with respect to the transfer of property by registered instrument, shall, on and from the commencement of this Act, extend to every cantonment.</p> <p>(2) The Registrar or Sub-Registrar of the district or sub-district formed for the purposes of the Registration Act, 1908, in which any cantonment is situated, shall, when any document relating to immovable property within the cantonment is registered, send information of the registration forthwith to the Chief Executive Officer and the Defence Estates Officer and such other authority as the Central Government may prescribe in this behalf.</p>	4 of 1882. 16 of 1908.
Validity of notices and other documents.	360. No notice, order, requisition, licence, permission in writing or other such document issued under this Act shall be invalid merely by reason of any defect of form.	
Admissibility of document or entry as evidence.	361. A copy of any receipt, application, plan, notice, order or other document or of any entry in a register, in the possession of a Board shall, if duly certified by the legal keeper thereof or other person authorised by the Chief Executive Officer in this behalf, be admissible in evidence of the existence of the document or entry, and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original documents or entry would, if produced, have been admissible to prove such matters.	
Evidence by officer or employee of the Board.	362. No officer or employee of a Board shall, in any legal proceeding to which the Board is not party, be required to produce any register or document the contents of which can be proved under section 361 by a certified copy, or to appear as a witness to prove any matter or transaction recorded therein save by order of the court made for special cause.	
Application of Act 4 of 1899.	363. For the purposes of the Government Buildings Act, 1899, cantonments and Boards shall be deemed to be municipalities and municipal authorities respectively and the references to the State Government in section 4 of that Act shall be construed as references to the Central Government.	
Power to remove difficulties.	<p>364. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary for removing the difficulty:</p> <p>Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.</p> <p>(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament.</p>	
Repeals and savings.	<p>365. (1) The Cantonments Act, 1924 is hereby repealed.</p> <p>(2) Notwithstanding the repeal of the cantonments Act, 1924,—</p> <p>(a) any appointment, notification, order, scheme, rule, form, notice or bye-law made or issued, and any licence or permission granted under the said Act shall, in so far as it is not inconsistent with the provisions of this Act continue in force and be deemed to have been made, issued or granted, under the provisions of this Act, unless and until it is superseded by any appointment, notification, order, scheme, rule, form, notice or bye-law made or issued or any licence or permission granted under the said provisions;</p> <p>(b) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board constituted under this Act;</p>	2 of 1924. 2 of 1924.

(c) all budget estimates, assessments, valuations, measurements or divisions made by the Board shall in so far as they are not inconsistent with the provisions of this Act, continue in force and be deemed to have been made under the provisions of this Act unless and until they are superseded by any budget estimate, assessment, valuation, measurement or division made by the Board constituted under the said provisions;

(d) all properties, movable and immovable and all interests of whatsoever nature and kind therein, vested in the Board shall with all rights of whatsoever description, use, enjoyed or possessed by the said Board vest in the Board constituted under this Act;

(e) all rates, taxes, fees, rents and other sums of money due to the Board shall be deemed to be due to the Board constituted under this Act;

(f) all rates, taxes, fees, rents, fares and other charges shall, until and unless they are varied by the Board constituted under this Act, continue to be levied at the same rate at which they were being levied by the Board immediately before the commencement of this Act;

(g) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Board may be continued or instituted by or against the Board constituted under this Act.

SCHEDULE I

(See section 100)

NOTICE OF DEMAND

To

residing at

Taking notice that the Board demands from.....the sum of
due fromon account of(here describe the property,
occupation, circumstance or thing in respect of which the sum is payable) leviable under
.....for the period of..... Commencing on
the day of20....., and ending on the
.....day of20....., and that if, within thirty days from the
service of this notice, the said sum is not paid to the a Board at..... or
sufficient cause for non-payment is not shown to the satisfaction of the Chief Executive
Officer, warrant of distress/attachment* will be issued for the recovery of the same with
costs.

Dated this.....day of20.....

(Signed)

Chief Executive Officer,
Cantonment.

[*Strike out whichever is not applicable.]

SCHEDULE II

(See section 101)

FORM OF DEMAND

(Here insert the name of the officer charged with the execution of warrant)

Whereas A.B. of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due on account of * for the period of commencing on the day of 20 and ending with the day of which sum is leviable under

And whereas thirty days have elapsed since the service on him of notice of demand for the same.

This is to command you to [distrain/attach#] subject to the provisions of the Cantonments Act, 2003, the [movable/immovable#] property of the said A.B. to the amount of the said sum of Rs.; and forthwith to certify to me, together with this warrant, all particulars of the property [seized/attached #] by you thereunder.

Dated this day of 20

(Signed)

Chief Executive Officer,
Cantonment

* Here describe the liability.

Strike out whichever is not applicable.

SCHEDULE III

(See section 103)

FORM OF INVENTORY OF PROPERTY DISTRAINED AND NOTICE OF SALE

To

residing at

Take notice that I have this day seized the property specified in the inventory annexed hereto, for the value of.....due for the liability* mentioned in the margin for the period commencing with.....day of20..... and ending with theday of.....20....., together with Rs..... due for service of notice of demand, and that, unless within seven days from the date of the service of this notice you pay to the Board the said amount, together with the costs of recovery, the said property will be sold by public auction.

Dated thisday of20.....

(Signature of officer executing the warrant.)

INVENTORY
(Here state particulars of property seized).

*Here describe the liability.

SCHEDULE IV

(See section 319)

CASES IN WHICH POLICE MAY ARREST WITHOUT WARRANT

PART A

Section	Subject
174	Making or selling of food, etc., or washing of clothes, by infected person.
289(1)(a)(i)	Drunkenness, etc.

PART B

183(1)	Remaining in, or re-entering, cantonment after notice of expulsion for failure to attend hospital or dispensary.
259	Destroying, etc., name of street or number affixed to building.
282	Feeding animal on filth, etc.
289(1)(a)(ii)	Using threatening or abusive words, etc.
289(1)(a)(iii)	Indecent exposure of person, etc.
289(1)(a)(iv)	Begging.
289(1)(a)(v)	Exposing deformity, etc.
289(1)(a)(vii)	Gaming.
289(1)(a)(xii)	Destroying notice, etc.
289(1)(a)(xiii)	Displaces, damages, alters, pavements, gutter, stormwater drain.
289(1)(f)	Keeping common gaming-house, etc.
289(1)(g)	Beating drum, etc.
289(1)(h)	Singing, etc., so as to disturb public peace or order.
290(6)	Setting loose, or setting on, ferocious dog.
296	Discharging fire-arms, etc., so as to cause danger.
300	Loitering or importuning for sexual immorality.
304(a)	Remaining in, or returning to, a cantonment after notice of expulsion.

SCHEDULE V

(See section 345)

APPEALS FROM EXECUTIVE ORDERS

S. No.	Section	Executive Order	Appellate Authority	Time allowed for appeal
1	2	3	4	5
1	137	Notice to fill up well, tank, etc., or to drain off or remove water.	General Officer Commanding-in-Chief, the Command or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Thirty days from service of notice.
2	138	Notice requiring the owner to provide latrine, urinal, cesspool dust-bin or other receptacle.	Board	Fifteen days from service of notice.
3	139	Notice requiring provision of sanitary facilities in market, school, theatre or other place of public resort.	Board	Fifteen days from service of notice.
4	142	Notice for removal of congested building	General Officer Commanding-in-Chief, the Command or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Thirty days from service of notice.
5	144	Notice requiring a building to be repaired or altered so as to remove sanitary defects.	General Officer Commanding-in-Chief, the Command or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Thirty days from service of notice.
6	147	Notice prohibiting owner or occupier to use a building or part of a building for human habitation.	General Officer Commanding-in-Chief, the Command or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Twenty-one days from service of notice.
7	183	Order directing a person to remove from the Cantonment and prohibiting him from re-entering it without permission.	General Officer Commanding-in-Chief, the Command or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Thirty days from service of notice.
8	190	Notice requiring maintenance Board or closing of private source of public drinking water-supply.		Fifteen days from service of notice.
9	192	Notice requiring the owner, lessee or occupier of a building or land to obtain water from a source of public water supply.	Board	Fifteen days from service of notice.
10	195	Notice for cutting off the connection between any source of public water-supply and any building or land to which water is supplied	Board	Fifteen days from service of notice.

1	2	3	4	5
11	238	(a) Refusal to sanction the erection or reerection of a building in a civil area	Board communication.	Thirty days from service of
		(b) Refusal to sanction the erection or reerection of a building in a Cantonment (Other than a civil area)	General Officer Commanding-in-Chief, the Command, or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Thirty days from service of communication.
12	248	(a) Notice to stop erection or reerection of, or to alter or demolish, a building in a civil area.	Board or any member authorised by the Board.	Thirty days from service of notice.
		(b) Notice to stop erection or re-erection of, or to alter or demolish, a building in a Cantonment (Other than a civil area.)	General Officer Commanding-in-Chief, the Command, or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Thirty days from service of notice.
13	252	Notice requiring the owner or the occupier to alter or remove any projection or encroachment.	General Officer Commanding-in-Chief, the Command, or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Thirty days from service of notice.
14	253	Notice to pull down or otherwise deal with a building newly erected or re-built without permission over a sewer, drain, culvert, water course or water-pipe.	General Officer Commanding-in-Chief, the Command, or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Thirty days from service of notice.
15	273	Notice prohibiting or restricting the use of a slaughter-house.	General Officer Commanding-in-Chief, the Command, or Principal Director or Director or other authority authorised in this behalf by the Central Government.	Twenty one days from service of notice.
16	297	Notice to remove, repair, protect, or enclose a building, wall or anything affixed thereto, or well, tank, reservoir, pool, depression or excavation.	Board service of notice.	Thirty days from
17	302	Notice directing disorderly person to remove from cantonment and prohibiting him from re-entering it without permission.	District Magistrate	Thirty days from service of notice.

STATEMENT OF OBJECTS AND REASONS

The Cantonments Act, 1924 (2 of 1924) makes provisions relating to the administration of cantonments. As cantonments are Central territories under the Constitution, the civic bodies functioning in these areas are not covered under State municipal laws.

2. In view of the present day, aspirations and needs of the people residing in cantonment areas and in order to bring in modern municipal management procedures/ techniques in such areas, it is proposed to enact a new legislation by replacing the Cantonments Act, 1924 to provide for – (i) greater democratisation; (ii) reservation of seats in Cantonment Boards for women and the Scheduled Castes/Scheduled Tribes; (iii) better financial management; (iv) extension of centrally sponsored development schemes to such areas; (v) management of defence lands and their audit, etc.

3. The new legislation has been modified with a view to re-enact the existing Act in the context of Seventy-fourth Constitutional Amendment and to provide for better urban management in cantonments as recommended by the Standing Committee of Parliament on Defence and the Action Taken Note of the Government on their recommendations. Broadly, the proposed modifications could be categorised as under :—

(i) **Greater Democratisation** : The Bill envisages enhanced representation for elected members to make proper balance between the elected and nominated one. Reservation of seats in the Cantonment Boards for women and the Scheduled Castes/Scheduled Tribes would also fall in this category. In the proposed Bill, parity has been brought between the official and elected members of the Board and with this, the number of elected members would increase. The enhanced representation for elected members will cater for increased civil population in the cantonment areas.

(ii) **Land Management** : Over the years, the defence land ownership has increased to 17.31 lakh acres out of which about 2 lakh acres of such lands are situated within 62 notified cantonments being managed under the existing Act. There is no statute to cover the management of about 15 lakh acres of defence lands lying outside the cantonments. As on date, these defence lands are regulated by executive instructions (not covered under any statute) issued by the Central Government from time to time through Acquisition, Custody, Relinquishment, etc. of Military Lands in India (ACR) Rules, 1944, which are non-statutory in nature.

The Management of Cantonment Board properties and the defence lands outside the cantonments is different from each other in a sense that the former is covered under the existing Act and the Cantonment Property Rules, 1925 made thereunder, whereas, there is no such legislation or rules for the latter. The Standing Committee of Parliament (12th Lok Sabha) recommended that provisions may be made in the Cantonments Act itself regarding management of defence lands, their records, consolidation of earlier policies and land audit.

Statutory provisions have accordingly been made and a new Chapter on management of defence lands has been added in the Bill. The provisions contained in this Chapter will, *inter alia*, enable the Central Government to notify the defence lands, consolidate land management policies and records in regard to defence lands, carry out land audits to detect abuse if any, non-utilisation and sub-optimal utilisation of lands.

The Standing Committee of Parliament has also recommended making legal provisions to tackle encroachments on defence lands situated all over the country.

Accordingly, the problem of encroachments is now proposed to be tackled through the provisions contained in clauses 239, 248, 249, 253 and 257 of the proposed Bill. This would be in addition to the powers available to the Government under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

(iii) **Development impetus** : In addition, provisions have been made which would give necessary impetus to development activities. To keep pace with recent developments, provisions have also been made for developmental and welfare activities like town-planning, old age homes, houses for disabled and destitutes, working women hostels, rain water harvesting, non-conventional energy and other miscellaneous developmental activities which are important to sustain the environment and taking steps for social development.

(iv) **Resource Generation** : Provisions have been incorporated in the new Bill to streamline financial administration, improve finance base and change the tax mechanism keeping in view the needs of modern municipal administration. Provisions have also been made for a Cantonment Development Fund in which, any sum received from Government or an individual or association (by way of gift or deposit) or from centrally sponsored schemes, may be credited.

The Standing Committee of Parliament (12th Lok Sabha) had also made a recommendation for extension of centrally sponsored development schemes in cantonments for uniform development of States. Provisions in clauses 10 and 108 of the Bill have therefore been made making every Board a 'deemed municipality' for the purposes of article 243P(e) of the Constitution. This would enable the Cantonment Boards to avail benefits and advantages of centrally sponsored schemes for social and economic development as are presently available to other municipalities in various States.

Under article 285 of the Constitution, the properties of Central Government are exempted from all taxes imposed by local authorities in the States. Representations were received that for the services rendered by the local bodies and the financial implications involved, some payment in the form of service charges may be made to them. Consequently, the Central Government issued certain executive orders making provision for payment of service charges to local bodies since 1954.

There is no specific statutory provision to give legal backing to the said decision/orders made by the Government in this regard from time to time. It is, therefore, proposed to make a provision in the Bill for payments to be made to the Cantonment Boards for service charges by the Central and the State Governments, after ascertaining the same.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;

GEORGE FERNANDES.

The 17th December, 2003.

Notes on Clauses

Clause 1.—This clause provides for short title, extent and commencement.

Clause 2.—This clause defines certain words and expressions which have been frequently used in various provisions contained in the Bill.

Clause 3.—This clause enables the Central Government to declare any place or places in which any part of the Armed Forces is quartered or which may be required for the service of such forces to be a cantonment and to make provisions for its administration.

Clauses 4 and 5.—These clauses enable the Central Government to include or exclude any area situated in the vicinity of a cantonment into or from a cantonment, and clause 5 deals with the effect of including any area in cantonment.

Clauses 6, 7 and 8.—These clauses provide for the disposal and application of cantonment funds when whole of a cantonment or a part thereof ceases to be a cantonment.

Clause 9.—This clause enables the Central Government to exclude from the operation of the Bill whole or any part of a cantonment.

Clauses 10, 11 and 12.—These clauses provide for the incorporation and constitution of Cantonment Board for every cantonment, describe the categories of cantonments and the composition of their respective Boards, depending upon with population of the cantonment.

Clause 13.—This clause enables the Central Government to vary the constitution of the Board by reason of military operation or for the proper administration of the cantonment and also lays down the composition of the Board so varied and its terms of office.

Clause 14.—This clause lays down the term of office of members of the Board and enables the Central Government to extend the same in order to avoid administrative difficulty for a period not exceeding one year.

Clauses 15 and 16.—These clauses empower the Central Government to decide about the filling of vacancies arising in the Board in certain cases.

Clause 17.—This clause provides for the format of the oath of affirmation to be taken by every person who become the member of the Board by virtue of his office, or being nominated or elected to the Board.

Clause 18.—This clause provides for the method of submission of resignation by nominated as well as elected members of the Board and enables the Central Government or the General Officer Commanding-in-Chief, the Command to accept the same.

Clause 19.—This clause provides for the requirement and method of appointment of a President and a Vice-President for the Cantonment Boards.

Clause 20.—This clause provides for the term of office of Vice-President of a Board and the method for his resignation and removal.

Clauses 21 and 22.—These clauses describe the duties of President and Vice-President of a Cantonment Board.

Clause 23.—This clause provides for allowances to the Vice-President and the elected members of the Board, as may be prescribed.

Clause 24.—This clause empowers the Central Government to appoint a Chief Executive Officer for every cantonment who shall be a member-secretary of the Board and of every Committee of the Board and makes provision for his salary.

Clauses 25 and 26.—These clauses describe the duties and special powers of the Chief Executive Officer.

Clauses 27 and 28.—These clauses provide for the powers of the Central Government in preparation of Electoral Rolls for every cantonment, the periodicity of their publication, and the qualifications and disqualifications of a person to be considered eligible to be an elector.

Clause 29.—This clause provides for the qualifications and disqualifications for being a member of the Board.

Clause 30.—This clause provides interpretation of certain terms and conditions used in clauses 27, 28 and 29.

Clause 31.—This clause empowers the Central Government to make rules to regulate all or some matters for the purpose of holding elections for any cantonment or group of cantonments.

Clause 32.—This clause prohibits a member of the Board from voting at a meeting of the Board or of any Committee of the Board on any question relating to his own conduct or matter which relates his own pecuniary interest.

Clause 33.—This clause imposes on a member of the Board a liability for any loss, waste or misapplication of any money or property of the Board, caused due to his neglect or misconduct.

Clauses 34 and 35.—These clauses enable the Central Government to remove from a Board any member for being disqualified for membership or for absenting at three consecutive meetings of the Board without sufficient reasons and consequences of any such removal.

Clause 36.—This clause enables a member of the Board to be a deemed public servant.

Clause 37.—This clause lays down the disqualifications of person to be an employee of the Board in case he has any pecuniary interest in the activities of the Board.

Clause 38.—This clause enables every officer or employee of the Board to be a deemed public servant.

Clauses 39 to 45.—These clauses provide the elaborate provisions regarding holding Board meetings, the business to be transacted at the meetings, the quorum required for the meetings, the Presiding Officer and recording of minutes, the meeting to be public and the method of deciding questions at the Board meetings.

Clauses 46 and 47.—These clauses enable the Central Government to declare an area in every cantonment as civil area and revision of its boundaries in consultation with a Board, and also provide for separate Committees for the notified civil area exercising the powers, duties and functions of the Board in certain areas of civil administration.

Clause 48.—This clause empowers the Board to make, with prior approval of the Central Government, regulations (pertaining to the conduct of meetings) and appointment of Committees.

Clause 49.—This clause empowers the Board to take joint action with other local authority in matters of common interest and also empowers the Central Government to decide in case of any difference of opinion between the Board and such other local authority.

Clause 50.—This clause enables the Central Government to require every Board to submit a report on its administrations during the preceding financial year.

Clauses 51 to 55.—These clauses empowers the Central Government, the General Officer Commanding-in-Chief, the Command, the Director General or the Principal Director to require production of documents, carry out inspections of the cantonments, call for documents, require the execution of works and enforcement of directions by the Cantonment Boards.

Clause 56.—This clause empowers the President, District Magistrate, Magistrate and Chief Executive officer to override the decision of the Board in certain cases.

Clause 57.—This clause empowers the Central Government of review any decision of the Board.

Clause 58.—This clause empowers the General Officer Commanding-in-Chief, the Command to direct for reconsideration and suspension of a decision of the Board or to modify or set aside after giving the Board an opportunity of showing cause for the same.

Clause 59.—This clause empowers the Central Government, after consulting the General Officer Commanding-in-Chief the command to modify or set aside a decision of the Board.

Clause 60.—This clause empowers the Central Government for supersession of a Board in case it makes defaults in performance of its duties or exceeds or abuses its powers. It also provides for the composition of the Board, so superseded.

Clause 61.—This clause provides for the validity of proceedings of a Board or of any Committee of a Board.

Clause 62.—This clause lays down the duties to be performed by a Board as far as the funds at its disposal so permit.

Clause 63.—This clause enables the Boards to manage any property entrusted to its management by the Central Government, subject to such terms as may be determined under rules to be made by the Central Government under clause 351.

Clause 64.—This clause provides for the discretionary functions that may be performed by the Board with the expenditure on the same to be declared as appropriate charge on the cantonment fund with the sanction of the Central Government.

Clause 65.—This clause enables the Board to incur expenditure for educational, health and other purposes outside the cantonment in case the same serve the interests of the residents of the cantonment.

Clause 66.—This clause empowers the Board to impose with the previous sanction of the Central Government, property tax, tax on trades, professions, calling and employments, and any other tax which may be imposed in any municipality in the State in which such cantonment is situated.

Clause 67.—This clause empowers a Board to charge certain fees and charges.

Clauses 68 to 72.—These clauses make elaborate provisions pertaining to the norms of property tax, framing of preliminary proposals for imposition of a tax under clause 66, procedure for invitation of objections to the Board's proposal and the disposal thereof, final imposition of a tax and the power of the Central Government to issue directions to a Board to impose a particular tax.

Clause 73.—This clause defines the term "annual rateable value" as used in the Bill in respect of various types of properties in a cantonment for the purpose of assessment of tax.

Clause 74.—This clause provides for the incidence of taxation on whom the taxes would be primarily leviable.

Clauses 75 to 80.—These clauses provide for the elaborate provisions regarding preparation of assessment list and its revision by the Chief Executive Officer, authentication of the assessment list by the Chief Executive Officer and the President Cantonment Board, evidential value of the assessment list, its amendment and preparation of view assessment list once in every three year.

Clause 81.—This clause provides for the procedure to be followed in cases where the title of any person primarily liable for the payment of a tax is transferred whether through an instrument or in the event of death, in so far as such transfer relates to the payment of taxes.

Clause 82.—This clause provides for the need to give a notice of erection of a building, its completion and occupation so far as it relates to the assessment and payment of taxes.

Clause 83.—This clause empowers the Board to remit or refund a portion of tax in case of wholly or partly demolition or destruction of a building to which the tax relates.

Clause 84.—This clause provides for the remission of taxes by the Chief Executive Officer in case a property has remained vacant and unproductive rent for a certain period of time.

Clause 85.—This clause enables the Chief Executive Officer to make entry in assessment list of the details of buildings for the purpose of partial remission or refund of a tax in case a building is composed of separate tenements.

Clause 86.—This clause requires the submission of a notice to the Chief Executive Officer regarding a building, land or tenement having remained vacant and unproductive of rent for the purpose of claiming remission or refund of tax.

Clause 87.—This clause makes provision as to which building, tenement or land shall be deemed to be vacant and unproductive of rent.

Clause 88.—This clause requires the owner of any building, tenement or land in respect of which remission or refund of tax has been claimed, to give notice of its reoccupation and also provides for the penalty in case such notice is not given.

Clause 89.—This clause provides that a tax on any building or land shall be a first charge thereon.

Clause 90.—This clause enables the Chief Executive Officer or any person authorised by him to inspect, examine or weigh any goods, vehicles or animals imported in cantonment on which octroi or terminal tax or toll is leviable.

Clause 91.—This clause lays down a penalty that may be imposed in cases of evasion of octroi, terminal tax or toll.

Clause 92.—This clause enables the Chief Executive Officer to lease the collection of any octroi, terminal tax or toll for any period not exceeding one year, with the previous sanction of the President, Cantonment Board.

Clause 93.—This clause provides for filing of appeals to the District Court against the assessment or levy of, or against the refusal to refund of any tax under the Bill.

Clauses 94 and 95.—These clauses empower the District Court hearing the appeal to decide about the costs of appeal and require its payment to be made whether by the Board or the appellant.

Clause 96.—This clause lays down the limitation of time and deposit of the disputed amount in the Board for filing an appeal in the case of any tax.

Clause 97.—This clause provides that order of a District Court in the appeals so filed shall be final.

Clauses 98 and 99.—These clauses enable the Chief Executive Officer to direct, by a notice in this regard, the dates and manner in which a tax shall be payable.

Clause 100.—This clause enables the Chief Executive Officer to cause a notice of demand served (with a fee for the same) in case amount of tax is not paid within thirty days of the presentation of bill/issue of public notice in this regard.

Clause 101.—This clause empowers the Chief Executive Officer to issue a warrant and recover the amount of tax by distress and sale of the movable property or attachment and sale of immovable property of the defaulter.

Clause 102.—This clause provides for the recovery of interest in case amount of tax is not paid within thirty days of the notice.

Clause 103.—This clause enables an official of the Board, so authorised, to distrain any movable property or standing timber, growing crops or grass belonging to the defaulter, subject to certain conditions.

Clause 104.—This clause enables the Chief Executive Officer to arrange for the disposal of distrained property by public auction and credit the sale proceeds to the cantonment funds.

Clause 105.—This clause provides for the procedure to be followed for the attachment and sale of immovable property on issue of warrant for the same.

Clause 106.—This clause empowers the Chief Executive Officer to direct a person, believed to be moving out of the cantonment, to pay the taxes immediately after serving a notice of demand in this regard.

Clause 107.—This clause provides for the institution of a suit for recovery of a tax.

Clause 108.—This clause provides for every Board to be Municipality for the purposes of articles 243P(e) of the Constitution of India and a Municipal Committee for the purposes of the Municipal Taxation Act, 1881 (11 of 1881).

Clause 109.—This clause requires the Central Government or the State Government to pay to the Board annually service charges.

Clause 110.—This clause enables the Board to make special provisions for conservancy services in certain cases on the payment of the conservancy charges through a written agreement.

Clause 111.—This clause provides for exemption from payment of conservancy tax in case of buildings covered under the conservancy agreement under clause 110.

Clause 112.—This clause empowers the Central Government to exempt, by notification in the Official Gazette, any person or class of persons or any property or goods from the payment of any tax.

Clause 113.—This clause empowers the Board to exempt, for a period not exceeding one year at a time, any person, on reasons of poverty from the payment of any tax or a part thereof.

Clause 114.—This clause enables the Chief Executive Officer to allow any person to compound any tax with the previous sanction of the General Commanding Officer-in-Chief, the Command.

Clause 115.—This clause enables the Board to write off any sum due on account of any tax, up to two thousand five hundred rupees and do so for any sum beyond that with previous sanction of the President.

Clause 116.—This clause enables the Chief Executive Officer to call upon any inhabitant of the cantonment to furnish information for the purpose of payment of taxes.

Clauses 117 and 118.—These clauses provide for the liability of a person for a tax or a distress, not to suffer invalidity by reason of an immaterial error in record or defect in the form of the notice of demand.

Clause 119.—This clause provides for a cantonment fund and a cantonment development fund to be formed for every cantonment and the nature of sums to be credited to the said funds.

Clause 120.—This clause provides that the cantonment fund and the cantonment development fund shall be kept in separate accounts in State Bank in India or a nationalised bank or scheduled commercial bank.

Clause 121.—This clause enables the Board, by a resolution passed in this behalf, to borrow money from another Board.

Clause 122.—This clause provides for properties of certain nature, acquired or provided or managed by a Board to vest in and belong to the Board and be under its direction, management and control.

Clause 123.—This clause provides that all property vested in a Board shall be applied only for the purposes, duties or obligations imposed upon the Board.

Clause 124.—This clause enables that Central Government to procure the acquisition of immovable property under the Land Acquisition Act, 1894 (1 of 1894), as may be required by a Board for the purposes of the Bill.

Clause 125.—This clause enables the Central Government to make rules on conditions on which a property may be acquired by a Board and on the matters relating to cantonment fund or cantonment development fund or cantonment property.

Clause 126.—This clause enables every Board to enter into and perform any contract necessary for the purposes of the Bill.

Clause 127.—This clause specifies the requirement of the sanction of the Board for every contract for which budget provision does not exist or which involves a value exceeding rupees fifty thousand and also enables the Chief Executive Officer to sanction all other contracts.

Clause 128.—This clause provides for every contract of value exceeding fifty thousand rupees to be in writing and signed by two members of the Board, one of which will be President or Vice-president.

Clause 129.—This clause provides for the contracts improperly executed not to be binding on a Board.

Clause 130.—This clause specifies the responsibility of various officers in the cantonment for the purposes of sanitation and control over sanitation in various parts of the cantonment.

Clause 131.—This clause specifies the general duties of Health Officer to be advisor to the Board in all matters relating to sanitation in the cantonment and those of the Assistant Health Officer to perform such duties as may be allotted to him by the Health Officer.

Clause 132.—This clause provides for all public latrines, urinals and conservancy establishments to provide separate compartments for each sex and not to be a nuisance.

Clause 133.—This clause requires an occupier of a building or land to collect and deposit rubbish, etc. by way of house scavenging, provision of receptacles, etc.

Clause 134.—This clause enables a Board to undertake private conservancy arrangement where the occupier of any building or land fails to do so to the satisfaction of the Chief Executive Officer.

Clause 135.—This clause requires the Board to provide proper public receptacles, etc., for the deposit and disposal of rubbish, etc., and also enables the Chief Executive Officer to issue directions in this regard.

Clauses 136 to 138.—These clauses enable the Chief Executive Officer to require any person having control of any land or building, to close any cesspools, receptacles, for filth, etc., or keep them in clean condition; fill up or cover any well, cistern, reservoir or receptacle which is or is likely to be a breeding place for mosquitoes; and provide a latrine, urinal, etc., for the building or land.

Clause 139.—This clause requires every person employing more than ten workmen or having control of a market, school, theatre in a cantonment to provide latrines and urinals and sweepers as may be thought fit by the Chief Executive Officer.

Clause 140.—This clause enables the Chief Executive Officer or any official of the Board to require the owner of any private latrine or urinal in the cantonment, not to put the same to public use.

Clause 141.—This clause provides special provisions for collection of rubbish and solid waste management by the Board.

Clause 142.—This clause enables the Board to require the removal of buildings which may be in unhealthy condition or congested, after inspection by a committee.

Clause 143.—This clause enables the Board to require the owner or occupier of a building to reduce overcrowding of dwelling-houses in case the same is considered to be a danger to the health of the inmates.

Clause 144.—This clause enables the Board to require the owner of a building to execute repairs or alteration of a building if it is ill-constructed or dilapidated or in a insanitary state.

Clause 145.—This clause enables the Chief Executive Officer to require the owner, lessee or occupier of any land or building to be clean and keep the same in a good state.

Clause 146.—This clause requires an owner, occupier or lessee of a premises not to cause any air pollution.

Clause 147.—This clause enables the Board to order disuse of a building if it is considered to be unfit for human habitation.

Clause 148.—This clause enables the Chief Executive Officer to require the removal of noxious vegetation from any land in the cantonment.

Clause 149.—This clause enables the Board to impose conditions on the cultivation of any crop in a cantonment as may be considered injurious to the health of persons dwelling in the neighbourhood.

Clause 150.—This clause enables the Chief Executive Officer to call for information regarding burial and burning grounds from any person who may be in charge of such grounds.

Clause 151.—This clause prohibits the use of any place as a burial or burning ground without permission in writing of the Board.

Clause 152.—This clause enables the Board to require closing of burial or burning ground in a cantonment in case it has become offensive or dangerous to the health of persons living in the neighbourhood.

Clause 153.—This clause provides for exemption from operation of clauses 150 to 152 in case of any burial ground managed by or on behalf of the Government.

Clause 154.—This clause enables the Board to prescribe routes for the removal of corpses to burial or burning grounds.

Clause 155.—This clause requires every medical practitioner or any other person to be obliged to give information to the Board concerning infectious, contagious or communicable diseases in a cantonment and imposes certain conditions on the person suffering from these diseases.

Clause 156.—This clause lays down certain precautions to be followed by those running a Blood Bank in a cantonment.

Clause 157.—This clause enables the Officer Commanding, the Station to take special measures in case of outbreak of infectious or epidemic diseases, with the previous sanction of the Central Government.

Clauses 158 to 160.—These clauses enable the Chief Executive Officer to require names of customers of a dairymen, a washerman and a medical practitioner in case the outbreak of any infectious diseases which is attributable to the milk supplied, clothes washed or needles or syringes used by them.

Clauses 161 to 163.—These clauses provide for report after inspection of a dairy or washerman or medical practitioner's place of business by the Health Officer and action thereon including taking possession of milk, clothes, needles or syringes for examination.

Clauses 164 and 165.—These clauses require any person using a public conveyance while suffering from the infectious disease or for carriage of any such person to report the same to the Chief Executive Officer, who will forthwith cause the same to be disinfected.

Clause 166.—This clause provides for penalty for failure to report under clause 164 or clause 165.

Clause 167.—This clause provides that driver of any conveyance shall not be bound to carry person suffering from infectious or contagious diseases.

Clause 168.—This clause enables the Board to require, by notice, the disinfection of any building or articles therein in a cantonment to prevent or check the spread of infectious disease.

Clause 169.—This clause enables the Board or President to require the destruction of any infectious hut or shed in a cantonment to prevent the spread of any infectious disease and shall pay the compensation to the owner.

Clause 170.—This clause requires the Board to provide temporary shelter for inmates of infected or destroyed building or shed.

Clause 171.—This clause enables the Chief Executive Officer to require the disinfection of any building before letting the same, in case any person suffering from infectious disease has been living therein.

Clause 172.—This clause prohibits every person from disposing of any infected article without disinfection of the same.

Clause 173.—This clause makes it obligatory for the Board to provide proper place and means of disinfection.

Clause 174.—This clause lays down a penalty for the making or selling of food, etc., or washing of clothes by infected person in a cantonment.

Clause 175.—This clause enables the Chief Executive Officer to restrict or prohibit, by a public notice, the sale of certain food or drink when a cantonment is visited or threatened by an outbreak of any infectious disease.

Clause 176.—This clause enables the Chief Executive Officer on the advice by the Health Officer to exercise control over wells, tanks, etc., if the use of their water is likely to endanger or cause the spread of any disease.

Clause 177.—This clause enables the Chief Executive Officer to exercise control over the disposal of infectious corpse in a cantonment.

Clause 178.—This clause provides that the Board may provide, maintain and aid as many hospitals or dispensaries in a cantonment as it thinks fit and Medical Officer appointed by the Board shall be in-charge of every hospital and dispensary and be responsible for the medical activities to the Health Officer and the Chief Executive Officer.

Clause 179.—This clause requires the Board to run a hospital or dispensary in accordance with orders of the Central Government and also make provision of drugs, instruments, apparatus, furniture and appliances and cots, etc.

Clause 180.—This clause provides for free treatment for poor patients or those suffering from infectious disease and other sick persons with the sanction of the Board in every hospital and dispensary of the Board.

Clause 181.—This clause enables the Board to levy fees or charges from a patient who is ineligible for free treatment.

Clauses 182 and 183.—These clauses enable the Health Officer or the Medical Officer incharge of a hospital or dispensary to order a person believed to be suffering from infectious disease to attend for examination any hospital or dispensary by a notice in this regard and to direct a person refusing to comply with such notice to be removed from the cantonment.

Clause 184.—This clause enables the Board to prescribe suitable routes for pilgrims passing through a cantonment.

Clause 185.—This clause prohibits any person in the employment of essential services of the Board from resigning without reasonable cause or absent from duty without proper authority.

Clauses 186 to 188.—These clauses require the Board to provide or arrange for the provision of supply of pure water and carry out surveys and formulate proposals in this regard.

Clause 189.—This clause enables the Board, with previous sanction of the Central Government, to exercise control over sources of public water supply in a cantonment other than the sources which may be under the control of Military Engineer Service or Public Works Department.

Clause 190.—This clause enables the Chief Executive Officer to exercise control over and require the maintenance or closing of any private source of public drinking water supply in a cantonment.

Clause 191.—This clause enables the Chief Executive Officer subject to guidelines made by the Board, to permit the owner, lessee or occupier of any building or land to connect it with the source of public water supply.

Clauses 192 and 193.—These clauses enable the Chief Executive Officer to require the owner, lessee or occupier of a building or land to obtain water supply from a source of public water supply and supply water under an agreement subject to guidelines made by the Board in this regard.

Clause 194.—This clause provides for the Board not to be liable for any failure of supply of water or curtailment in its quantity due to accident, drought or other unavoidable cause.

Clause 195.—This clause lays down certain conditions of universal application to regulate the supply of water in a cantonment.

Clause 196.—This clause empowers the Board to supply, withdraw or curtail any supply of water to persons living outside the cantonment.

Clause 197.—This clause provides for a penalty which may be levied on a person who uses water for a purpose other than for which the water is supplied.

Clauses 198 and 199.—These clauses enable the Board to lay wires, connections, etc., for the purpose of lighting or a water supply system, etc., and pay compensation to any owner or occupier of building or land if such laying of wires, etc., causes any substantial interference to him.

Clause 200.—This clause prohibits the taking of any connection from the main without permission of the Board.

Clauses 201 and 202.—These clauses enable the Chief Executive Officer to prescribe the size of ferrules and to establish meters, etc., for gas or water supply in a cantonment and require the laying of the same to his satisfaction.

Clause 203.—This clause enables the Board to fix rates and charges for laying of mains, pipes, etc.

Clause 204.—This clause provides for the application of the foregoing clauses to Government supply of water in a cantonment.

Clause 205.—This clause enables the Chief Executive Officer to require any dwelling-house without a proper supply of water for domestic consumption, to obtain such supply.

Clause 206.—This clause enables the Board to recover charges for the supply of water.

Clauses 207 and 208.—These clauses enable the Board to receive a bulk supply of water from Government water supply in a cantonment where it does not have its own source of water supply and pay charges for the same and functions of the Board in relation to distribution of bulk supply.

Clauses 209 to 232.—These clauses provide special provisions concerning drainage and sewage in a cantonment, namely, their construction and control, sewage disposal, certain matters not to be passed into cantonment drains, connection of private drains into cantonment drains, nor premises to be constructed without drains, appointment of places for emptying of drains; building, railways and private streets not to be constructed over drains or water works, etc.

Clause 233.—This clause enable the Chief Executive officer, with the approval of the Board to cause to be prepared a spatial plan for land use in the cantonment earmarking zones for residential, institutional, commercial and other activities.

Clause 234.—This clause provides for an erection or re-erection of a building to be made only with the previous sanction of the Board and of the Chief Executive Officer in case it is in a civil area.

Clause 235.—This clause provides for a notice to be given to the Chief Executive Officer for erection or re-erection of a building in a cantonment.

Clause 236.—This clause requires the specific mention of the purpose for which a building is proposed to be erected in the notice to be given under clause 235.

Clause 237.—This clause provides for the powers of Board under certain sections to be exercised by the Chief Executive Officer in the civil area in the cantonment.

Clause 238.—This clause enables the Board to refuse or sanction (either absolutely or with certain directions) the erection or re-erection of a building.

Clause 239.—This clause enables the Chief Executive Officer to order the stoppage of any erection of a building or works in case it is found to be contrary to the sanction issued under clause 238.

Clause 240.—This clause enables the Central Government to sanction a general scheme of erection or re-erection of building within particular limits of a cantonment for the prevention of overcrowding and insanitation.

Clause 241.—This clause provides for protection to a Board against payment of any compensation in case any person sustains any damage in consequence of the refusal of the Board to sanction the erection of any building.

Clause 242.—This clause requires the person to whom sanction for erection or re-erection has been given to deliver a notice regarding its completion and obtain a completion certificate from the Chief Executive Officer.

Clause 243.—This clause provides for the validity of the sanction of erection or re-erection for a period of two years unless it is extended by the Chief Executive Officer on application in this regard.

Clause 244.—This clause provides against the use of a building for any purpose other than for which it has been sanctioned to be used.

Clause 245.—This clause provides for the laying down of a period within which the erection or re-erection of a building shall be commenced and completed.

Clause 246.—This clause requires the giving of a notice for the completion of erection or re-erection of a building within thirty days.

Clause 247.—This clause provides for a penalty in case of illegal erection and re-erection of a building in the cantonment.

Clause 248.—This clause enables the Board to direct the owner, lessee or occupier of any land in a cantonment to stop erection or re-erection of a building or demolish the same in case it is an offence under clause 247.

Clause 249.—This clause enables the Chief Executive Officer to direct the sealing of a premises where unauthorised construction is being carried out and also provides for a penalty for contravention of this provision.

Clause 250.—This clause bars the Courts from entertaining any proceedings in respect of any order or notice for which provision of appeal exists and has not been exhausted.

Clause 251.—This clause enables the Board to make bye-laws pertaining to various procedures to be followed in connection with erection or re-erection of buildings in a cantonment.

Clause 252.—This clause provides for prohibition of structures or fixtures, which may cause obstruction in streets in the cantonment and also enables the Chief Executive Officer to remove the same. It also enables the Chief Executive Officer to permit the putting of verandas, balconies, etc., in certain cases.

Clause 253.—This clause enables the Chief Executive Officer to pull down or otherwise deal with the same any unauthorised buildings over drains, culverts water course, water-pipe, etc., or otherwise deal with the same.

Clause 254.—This clause enables the Chief Executive Officer to require the owner or lessee of a building or land to put up and keep in good condition, proper troughs and pipes, etc.

Clause 255.—This clause enables the Chief Executive Officer to attach brackets for lamps and other accessories to the outside of any building.

Clause 256.—This clause provides that all roads in civil area and those outside the civil area as may be vested in the Board and shall be maintained by the Board.

Clause 257.—This clause enables the Chief Executive Officer to permit temporary occupation of any street or land for the purpose of depositing building material, etc., subject to conditions prescribed by the Board and payment of fee.

Clause 258.—This clause enables the Board to open any street for public use. It also enables the Board to close a street permanently, with sanction of the General Officer Commanding-in-Chief the command or Principal Director.

Clause 259.—This clause enables the Board to determine the names of streets and numbers of buildings in a cantonment.

Clause 260.—This clause enables the Board to permit Group Housing Schemes in a cantonment in accordance with special bye-laws framed for the purpose.

Clause 261.—This clause enables the Chief Executive Officer to permit to remove or the erection of any boundary wall, hedges or fences in a cantonment or to remove the same if found unsightly or otherwise objectionable.

Clause 262.—This clause enables the Board to require the owner, lessee or occupier of any land in the cantonment to fell, lop and trim trees wherever the same is necessary for any reason.

Clause 263.—This clause provides for the imposition of a penalty in case of digging of public land without the permission of the Chief Executive Officer.

Clause 264.—This clause enables the Chief Executive Officer to prohibit the owner, lessee or occupier of any quarry from continuing the work for the purpose of preventing danger or abating nuisance likely to be caused thereby.

Clause 265.—This clause enables the Board to provide and maintain public markets and slaughter-houses together with stall, shops, sheds, etc., to such number as it may think fit.

Clause 266.—This clause prohibits any person from selling or exposing for sale any animal or article in a public market.

Clause 267.—This clause enables the Board to transfer by public auction, the right to occupy or use any stall, shop, standing shed, etc., in a public market or public slaughter-house.

Clause 268.—This clause requires the Board to publish a table of stallages, rents, and fees leviable in a public market for regulating the use of such market.

Clause 269.—This clause provides that no place other than public market in a cantonment shall be used as a market unless licenced by the Board.

Clauses 270 to 274.—These clauses enable the Board or Chief Executive Officer to grant licence for private market or slaughter-house, to impose penalty for keeping market or slaughter-house without licence or for using unlicensed market or slaughter-house, lays down prohibition and restrictions on the use of slaughter-house and power to inspect slaughter-house etc.

Clause 275.—This clause empowers the Board by order to regulate the matters relating to days and working hours, for the opening of the public market or public slaughter-house, their design and sanitation, etc.

Clause 276.—This clause enables the Board to make provision of suitable places for washermen, its fee and lays a penalty for the contravention of such provisions.

Clause 277.—This clause provides for the issue of yearly licences for carrying on of certain occupations in a cantonment and enables the Board to issue such licences on the charge of a fee.

Clause 278.—This clause enables the Chief Executive Officer to stop the use of certain places as eating house, lodging house, hotel, etc., run in contravention of the term of a licence granted in this regard.

Clause 279.—This clause lays down certain conditions which may be attached to licences issued under clause 277.

Clause 280.—This clause enables the Board to vary a licence in case of place used under the licence is nuisance or is likely to be dangerous to life, health and property.

Clause 281.—This clause provides for a penalty for carrying on trade, etc., without licence or in contravention of clause 280.

Clause 282.—This clause provides for a penalty for feeding of animals kept for the purpose of supplying milk on filthy, deleterious substances.

Clause 283.—This clause enables the President, Vice-president, the Chief Executive Officer, the Health Officer, the Assistant Health Officer or any official of the Board so authorised to enter into any market, building, shop, stall or other places in the cantonment for inspection and seizure.

Clause 284.—This clause prohibits the import of cattle and flesh in a cantonment slaughtered outside the cantonment, without written permission of the Chief Executive Officer to be issued on the recommendation of the Health Officer.

Clause 285.—This clause provides for a penalty on the unauthorised sale of spirituous liquor or intoxicating drug by any person not a military person or a soldier in a cantonment or within such limits adjoining a cantonment as may be notified by the Central Government in the Official Gazette.

Clause 286.—This clause provides for a penalty on the unauthorised possession of spirituous liquor by any person subject to Army, Navy or Air Force, otherwise than as a military officer or a soldier or the wife or servant of any such person or of a soldier in a cantonment.

Clause 287.—This clause enables a Police Officer to arrest any person and seizure and confiscation of things for offence against the two last foregoing clauses without an order from a Judicial Magistrate.

Clause 288.—This clause exempts the application of the provisions of clauses 285 to 287 on articles sold or supplied for medicinal purposes.

Clause 289.—This clause elaborately provides for a penalty which may be imposed on any person for causing public nuisance in a cantonment.

Clause 290.—This clause enables the Board to make bye-laws for the registration and control of dogs in a cantonment.

Clause 291.—This clause provides for a penalty for violation of the traffic rules of the road in a cantonment.

Clause 292.—This clause enables the Chief Executive Officer to direct, by a public notice, that the roofs and external walls of huts and other building shall not be made of any inflammable materials without his permission.

Clause 293.—This clause enables the Board to prohibit, by a public notice, the stacking or collection of wood, dry grass or other inflammable materials in a cantonment.

Clause 294.—This clause prohibits the setting of naked light in a street or public place in such a manner as to cause danger of fire.

Clause 295.—This clause prohibits the exhibition of cinematographic and dramatic performances in the cantonment or elsewhere than in premises for which a licence has been granted by the Chief Executive Officer under this clause and penalty for such contravention.

Clause 296.—This clause provides for a penalty to be imposed on whoever discharges fire-works, etc., which are likely to cause danger to passers by or dwellers in a locality.

Clause 297.—This clause enables the Chief Executive Officer to require buildings, wells, etc., in a cantonment to remove in case the same cause a nuisance or are dangerous to the passersby or dwellers in a locality.

Clause 298.—This clause enables the Chief Executive Officer to secure and enclose the waste land in a cantonment used for improper purposes.

Clause 299.—This clause empowers the Officer Commanding the Station or the Board to discontinue the use of a building as a brothel or for purposes of prostitution.

Clause 300.—This clause provides for a penalty for loiters for the purpose of prostitution or importunes any person to the commission of sexual immorality.

Clause 301.—This clause enables the Officer Commanding the Station or the Board to require a person residing in or frequenting the cantonment and believed to be a prostitute, or has been convicted of an offence, to be removed from the cantonment.

Clause 302.—This clause enables a Judicial Magistrate of the First Class to issue summons for and order the removal and exclusion from the cantonment any disorderly person and also prohibit him from re-entering the cantonment.

Clause 303.—This clause enables the Officer Commanding the Station to require removal and exclusion from the cantonment any seditious person who is likely to cause disloyalty, disaffection or breach of discipline among any portion of the forces.

Clause 304.—This clause provides for the imposition of a penalty on any person who fails to comply with an order prohibiting him from re-entering a cantonment or harbours any such person who has been ordered to be removed from the cantonment.

Clause 305.—This clause provides for the Central Government to make rules for the classification of defence lands in or outside a cantonment and their management.

Clause 306.—This clause provides for the defence lands to include all lands, within and outside a cantonment, which have been inherited, acquired, hired, requisitioned or obtained by any other means by the Central Government for the purposes of defence and other related purposes.

Clause 307.—This clause enables the Central Government to vest any defence land, inside or outside a cantonment in a Board for specific purposes and under specific terms.

Clause 308.—This clause provides for the role of Defence Estates Officer as the agent of the Central Government, in the management and development of defence lands and also describes his duties in this regard.

Clause 309.—This clause provides for the audit of all defence lands, within or outside the cantonment to be audited by the Defence Estates Officer, in the prescribed manner.

Clause 310.—This clause authorises the President, Vice-President, Chief Executive Officer, Health Officer, etc., to enter into or upon any building or land to make any inquiry, inspection, measurement, etc., as may be necessary for the purpose of the Bill.

Clause 311.—This clause enables the Board to authorise any Member of a Board to inspect any work or institution, book, register, etc., maintained by the Board.

Clause 312.—This clause enables the Board or the Chief Executive Officer to authorise any person to inspect any drain, privy, latrine, urinal, etc., with the purpose of prevention and removal of any nuisance arising therefrom.

Clause 313.—This clause enables the Chief Executive Officer of a cantonment to enter on any land adjoining the land where an authorised work is in progress.

Clause 314.—This clause enables any person authorised under the Bill to break into any premises if such entry is considered necessary.

Clause 315.—This clause restricts any authorised entry to be made in the day time only.

Clause 316.—This clause provides for the obtaining of the owner's consent for making entry under the provisions of the Bill and also for giving four hours notice in such cases.

Clause 317.—This clause provides for the giving of due regard to the social and religious usages of the occupants of the place where entry is made under this Bill.

Clause 318.—This clause provides for a penalty for causing obstruction or molestation to any person acting on behalf of the Board, who is not a servant of the Board or has been lawfully contracted by the Board.

Clause 319.—This clause enables any member of the police force to arrest without a warrant, any person committing a breach of any provision of this Bill under Schedule IV.

Clause 320.—This clause requires all police officers to provide information to the Board about any attempt to commit any offence against the provisions of this Bill and also provide assistance to cantonment officers and servants in the exercise of their lawful authority.

Clause 321.—This clause provides to specify a reasonable time in a notice, requisitions or order made under this Bill.

Clause 322.—This clause provides for every notice, order or requisition issued by a Board under this Bill to be signed by the President of the Board or the Chief Executive Officer or the members of any committee especially authorised by the Board in this behalf.

Clauses 323 and 324.—These clauses lay down various methods of giving and serving a notice, order or requisition issued under this Bill.

Clause 325.—This clause enables the Board or the civil area committee or the Chief Executive Officer to take such action or steps as may be necessary for the non-compliance of the notices issued under this Bill.

Clause 326.—This clause enables the Board or the civil area committee or the Chief Executive Officer to issue notice to a person who obstructs the entry on a premises and to allow the same within eight days of the notice.

Clause 327.—This clause enables the board or the civil area committee or the Chief Executive Officer to require the occupier of a property to pay any amount recoverable from the owner of a property in case of default of the owner to pay the same.

Clause 328.—This clause enables a relief to the agent and trustee of a property not be liable to pay any sums due from the property if he does not have in his hand funds belonging to the owner sufficient for the purpose.

Clause 329.—This clause provides for the recovery of any dues under this Bill to be recovered with the cost of recovery by suit or application to a Judicial Magistrate having jurisdiction in the cantonment.

Clauses 330 to 335.—These clauses require the Board to convene a Committee of Arbitration to determine a matter in dispute in the event of disagreement as to the liability of a Board to pay any compensation under this Bill and lays down the procedure for convening the Committee of Arbitration and the constitution of such Committee of Arbitrations its meetings and powers and decisions.

Clause 336.—This clause makes provision for adoption of procedure for prosecutions.

Clause 337.—This clause enables the Chief Executive Officer to compound an offence made punishable under this Bill other than an offence under Chapter XIV.

Clause 338.—This clause provides for a general penalty in cases where penalty is not expressly provided under this Bill.

Clause 339.—This clause provides for the responsibility of every person being incharge of or responsible to a company, to be deemed to be guilty where an offence under this Bill has been committed by a company.

Clause 340.—This clause enables the Board or the civil area committee, to cancel a licence or written permission or suspend it for such period as it thinks fit in case a licensee commits a breach of any condition of the licence.

Clause 341.—This clause provides for the recovery of amount payable in respect of damage to a cantonment property, which in case of dispute, shall be determined by a Judicial Magistrate by whom the person incurring such penalty is being convicted.

Clause 342.—This clause lays down limitations for prosecution of any person made punishable by or under this Bill.

Clause 343.—This clause provides protection to the Board and other Officers involved in the administration of the cantonments from being prosecuted in any Court for anything done in good faith.

Clause 344.—This clause provides for a notice to be given if a suit is to be instituted against any Board, or against any member of a Board or an officer or employee of the Board in respect of any act done in pursuance of this Bill.

Clause 345.—This clause provides for filing of appeals from executive orders as described in Schedule V.

Clause 346.—This clause provides for the appeal to be filed by petition in writing to be presented to the authority which made the order against which the appeal is made, who shall be bound to forward it to the appellate authority.

Clause 347.—This clause provides for the suspension of all proceedings to enforce an order if an appeal has been admitted against the same.

Clause 348.—This clause provides for the filing of a revision of decision before the Central Government by either party after an appeal from an order made by the Board has been disposed of by the District Magistrate.

Clause 349.—This clause provides for the order of the appellate authority to be final, save as otherwise provided in clause 348.

Clause 350.—This clause provides for the right of every appellant to be heard in person or through a legal practitioner before an appeal is decided.

Clauses 351 and 352.—These clauses enable the Central Government after previous publication, to make rules to carry out the purposes and objects of this Bill, either generally for all cantonments or defence estates for the whole or any part of any one or more cantonments or Defence Estates.

Clause 353.—This clause enables the Board to make bye-laws for various matters as provided in the clauses of this Bill.

Clause 354.—This clause provides for a penalty to be charged for any breach of the bye-laws made by the Board under this Bill.

Clause 355.—This clause provides certain supplementary provisions regarding making of bye-laws to be effective only after their publication in the Official Gazette on approval by the Central Government.

Clause 356.—This clause provided for all the Rules and Bye-laws made under this Bill to be kept at the office of the Board and be available for inspection and purchase by any inhabitant of the cantonment.

Clause 357.—This clause enables the Central Government to extend to any area beyond a cantonment, by notification in Official Gazette certain provisions of this Bill and Rules made thereunder.

Clause 358.—This clause enables the Board, by a resolution passed in this behalf, to delegate certain functions to the President, Vice-President, Chief Executive Officer or Health Officer to delegate all or any of its functions to the Vice-President, Chief Executive Officer or Health officer.

Clause 359.—This clause provides for the application of certain provisions of the Transfer of Property Act, 1882 regarding transfer of property by registered instrument to every cantonment.

Clause 360.—This clause provides for no notice, order, requisition, etc., issued under this Bill to be invalid merely by reason of any defect of form.

Clause 361.—This clause provides for the admissibility of documents or entry as evidence in case the same is duly certified by the keeper of record or any person authorised by the Chief Executive Officer.

Clause 362.—This clause provides that no officer or employee of a Board shall, in any legal proceeding to which the Board is not party, be required to produce any register or document the contents of which can be proved under clause 361 by a certified copy, or to appear as a witness to prove any matter or transaction recorded therein save by order of the court made for special cause.

Clause 363.—This clause provides that for the purpose of the Government Building Act, 1899, cantonment and Boards shall be deemed to be municipalities and municipal authorities respectively and the references to the State Government in section 4 of that Act shall be construed as references to Central Government.

Clause 364.—This clause empowers the Central Government to remove difficulty by order published in the Official Gazette.

Clause 365.—This clause repeals the Cantonment Act, 1924 and provides that all actions taken or re-taken under the said Act, as long as they do not contravene the provisions of this Bill, shall be construed to have been taken under this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Cantonments Bill, 2003 empowers the Central Government to make rules for the purposes of the Bill in clauses 31, 125, 305 and 351.

Clause 31 of the Bill empowers the Central Government to make rules for —

- (a) the division of a cantonment into wards,
- (b) the determination of the number of members to be elected in each ward,
- (c) the preparation, revision and final publication of electoral rolls,
- (d) the reservation of wards for election of the Scheduled Castes, Scheduled Tribes and women,
- (e) the registration of electors, the nomination of candidates, the time and manner of holding elections and method by which votes shall be recorded, and
- (f) the authority, fees and the manner to decide election disputes.

Clause 125 of the Bill empowers the Central Government to make rules governing conditions on which property may be acquired by the Cantonment Board or property vested in Board may be transferred by sale, mortgage, lease, exchange or otherwise.

This clause also empowers the Central Government to make rules for matter relating to the Cantonment Fund or the Cantonment Development Fund or Cantonment property.

Clause 305 empowers the Central Government to make rules for classification of lands including the defence lands situated, inside or outside cantonment; regulation, control, management of such lands; and the manner in which and conditions subject to which any permission to occupy the defence lands be granted.

Clause 351 of the Bill empowers the Central Government in general to make rules for carrying out the purposes and objects of the Act including—

- (a) the manner in which, and the authority to which, application for permission to occupy land belonging to the Government in a cantonment is to be made;
- (b) the authority by which such permission may be granted and the conditions to be annexed to the grant of any such permission;
- (c) the allotment to a Board of a share of the rents and profits accruing from property entrusted to its management under the provisions of clause 63;
- (d) the appointment, promotion, transfer, tenure of office, salaries and allowances, provident funds, pensions, gratuities, leave of absence, discipline and other condition of service of employees of Boards;
- (e) the circumstances in which security shall be demanded from employees of Boards and the amount and nature of such security;
- (f) the keeping of accounts by Boards and the manner in which, such accounts shall be audited and published;
- (g) the manner in which, money may be paid out of a cantonment fund or cantonment development fund;

- (h) the preparation of estimates of income and expenditure by Boards and the conditions subject to which such estimates may be sanctioned;
- (i) the regulation of the procedure of Committees of Arbitration;
- (j) the prescribing of registers, statements and forms to be used and maintained by any authority for the purposes of this Bill;
- (k) the grant of leave to the members of the Board;
- (l) the form of notice required to be sent under this Bill and the manner of their service; and
- (m) any other matter which is required to be, or may be prescribed.

2. The Cantonments Bill also empowers the Cantonment Boards to make regulations and bye-laws in clauses 48, 204, 231, 251, 290 and 353.

Clause 48 of the Bill empowers the Board to make regulations consistent with the Bill and rules made thereunder for time, place, manner for conduct of business during Board's meeting and its sub committee's meetings.

Sub-clause (4) of clause 204 of the Bill empowers the Board to make regulations for the digging or use of bore wells in the cantonments.

Sub-clauses (4) and (7) of clause 231 of the Bill empowers the Board to make bye-laws for guidance of licensed plumbers, to exercise adequate control on all licensed plumbers, inspection of all work carried out by them and hearing and disposal of complaints made by owners or occupiers with regard to quality of work, material used and delay in execution of work.

Clause 251 of the Bill empowers the Board to make building bye-laws subject to provisions of the Bill.

Clause 290 of the Bill empowers the Board to make bye-laws for registration and control of dogs.

Clause 353 of the Bill empowers the Board, to make bye-laws, subject to the provisions of this Bill and the rules made thereunder by the Central Government, to provide for all or any of the following matters in the cantonment, namely:—

- (1) the registration of births, deaths and marriages, and the taking of a census;
- (2) the enforcement of compulsory vaccination and inoculation and levy of fees where such vaccination or inoculation is carried out at the houses of residents;
- (3) the regulation of the collection and recovery of taxes, tolls and fees under this Bill and the refund of taxes;
- (4) the regulation of any description of traffic in the streets and the enforcement of measures for the reduction of noise caused thereby or the prohibition of any description of such traffic.
- (5) the manner in which vehicles standing, driven, led or propelled in the streets between sunset and sunrise shall be lighted;
- (6) the seizure and confiscation of ownerless animals straying within the limits of the cantonments and regulation and control of cattle pounds;
- (7) the prevention and extinction of fire;
- (8) the construction of scaffolding for building operations to secure the safety of the general public and persons working thereon;

(9) the regulation in any manner provided for in this Bill of the construction, alteration, maintenance, preservation, cleaning and repairs of drains, ventilation-shafts, pipes, water-closets, privies, latrines, urinals, cesspools and other drainage works;

(10) the regulation or prohibition of the discharge into, or deposit in, drains of sewage, polluted water and other offensive or obstructive matter;

(11) the regulation or prohibition of the stabling or herding of animals, or of any class of animals, so as to prevent danger to public health;

(12) the disposal of corpses, the regulation and management of burial and burning places and other places for the disposal of corpses, and the fees chargeable for the use of such places where the same are provided or maintained by Government or at the expense of the cantonment fund;

(13) the permission, regulation or prohibition of the use or occupation of any street or place by itinerant vendors or by any person for the sale of articles or the exercise of any calling or the setting up of any booth or stall, and the fees chargeable for such use or occupation;

(14) the regulation and control of encamping grounds, sarais, hotels, dakhungalows, lodging-houses, boarding-houses, buildings let in tenements, residential clubs, restaurants, eating-houses, cafes, refreshment-rooms, guest houses, holiday resorts, cinemas and places of public recreation, entertainment or resorts;

(15) the regulation of the ventilation, lighting, cleansing, drainage and water-supply of the buildings used for the manufacture or sale of aerated or other potable waters and of butter, milk, sweetmeats and other articles of food or drink for human consumption;

(16) the matters regarding which conditions may be imposed by licences granted under clause 295 or clause 277;

(17) the control and supervision of places where dangerous or offensive trades are carried on so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effects arising or likely to arise therefrom;

(18) the regulation of the erection of any enclosure, fence, tent, awning or other temporary structure of whatsoever material or nature on any land situated within the cantonment and the fees chargeable in respect thereof;

(19) the laying out of streets, and the regulation and prohibition of the erection of buildings without adequate provision being made for the laying out and location of streets;

(20) the form of and the particulars which shall be contained in a development scheme or an improvement scheme and the manner in which such scheme shall be framed or altered, and levy of development charges.

(21) the regulation of the use of public parks and gardens and other public places, and the protection of avenues, trees, grass and other appurtenances of streets and other public places;

(22) the regulation of the grazing of animals and the fees chargeable in respect thereof;

(23) the fixing and regulation of the use of public bathing and washing places;

(24) the regulation of the posting of bills and advertisement, and of the position, size, shape or style or name-boards, sign-boards and sign-posts;

(25) the fixation of a method for the sale of articles whether by measure, weight, piece or any other method;

(26) the rendering necessary of licences within the cantonment—

(a) for persons working as job porters for the conveyance of goods;

(b) for animals or vehicles let out on hire or used for hawking articles;

(c) for the proprietors of drivers of vehicles, boats or other conveyances, or of animals kept or plying for hire or used for hawking articles;

(d) for persons impelling or carrying such vehicles or other conveyances; or

(e) for persons practising as nurses, midwives or dais;

(27) the prescribing of the fee payable for any licence required under clause (26), and of the conditions subject to which such licences may be granted, revised, suspended or withdrawn;

(28) the regulation of the charges to be made for the services of such job porters and of the hire of such animals, vehicles or other conveyances, and for the remuneration of persons impelling or carrying such vehicles or conveyances as are referred to in clause (26);

(29) the prescribing of fee payable for any licence except as otherwise specifically provided in the Bill, sanction or for any written permission granted by the Chief Executive Officer;

(30) the regulation or prohibition, for purposes of sanitation or the prevention of disease or the promotion of public safety or convenience, of any act which occasions or is likely to occasion a nuisance, and for the regulation or prohibition of which no provision is made elsewhere by or under this Bill;

(31) the circumstances and the manner in which owners of buildings or land in the cantonment, who are temporarily absent from, or are not resident in, the cantonment, may be required to appoint as their agents, for all or any of the purposes of this Bill or any rule or bye-law made thereunder, persons residing within or near the cantonment;

(32) the prevention of the spread of infectious or contagious diseases within the cantonment;

(33) the segregation in, or the removal and exclusion from, the cantonment, or the destruction, of animals suffering from or reasonably suspected to be suffering from any infectious or contagious disease;

(34) the supervision, regulation, conservation and protection from injury, contamination or trespass of sources and means of public water-supply and of appliances for the distribution of water whether within or without the limits of the cantonment;

(35) the manner in which connections with water-works may be constructed or maintained, and the agency which shall or may be employed for such construction and maintenance;

(36) the regulation of all matters and things relating to the supply and use of water including the collection and recovery of charges thereof and the prevention of evasion of the same;

(37) the maintenance of schools, and the furtherance of education generally;

(38) the regulation of prohibition of the cutting or destruction of trees or shrubs, or of excavations, or of removal of soil or quarrying; where such regulation or prohibition appears to the Board to be not prejudicial to the maintenance of ecological balance and to be necessary for the maintenance of a water-supply, the preservation of the soil, the prevention of landslide or of the formation of ravines or torrents, or the protection of land against erosion, or against the deposit thereon of sand, gravel or stones;

(39) the rendering necessary of licences for the use of premises within the cantonment as stables, kennels, sites or cow-houses or as accommodation for sheep, goats or fowls;

(40) the control of the use in the cantonment of mechanical whistles, sirens or trumpets;

(41) the regulation of supply of copies of official documents and prescribing the fee payable in respect thereof;

(42) the regulation of permission for granting licence for use of loud-speakers and prescribing the fee payable in respect thereof; and

(43) generally for the regulation of the administration of the cantonment under this Bill.

3. Sub-clause (1) of clause 364 of the Bill confers power upon the Central Government to make, by notification in the Official Gazette, such provisions not inconsistent with the provisions of the proposed legislation as may appear to be necessary for removing the difficulty of implementing the new law. However, no such order shall be made after the expiry of two years from the date of commencement of the proposed legislation. Every order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.

4. The matters in respect of which rules, regulations, bye-laws and notifications or orders may be made or issued are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. LXXIV OF 2003

A Bill to amend certain Acts to implement the recommendations of the Committees on Subordinate Legislation regarding publication and laying of rules and other delegated legislation.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Delegated Legislation Provisions (Amendment) Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for amendments relating to different enactments mentioned in the Schedule to this Act.

Amendment
of certain
enactments.

2. The enactments specified in the Schedule are hereby amended to the extent and in the manner mentioned in the third column thereof.

THE SCHEDULE
(See section 2)

Sl. No.	Short title	Amendments
1.	The Punjab Laws Act, 1872 (4 of 1872).	Section 50 shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:— “(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”
2.	The Central Provinces Laws Act, 1875 (20 of 1875).	After section 10, the following section shall be inserted, namely:— “10A. Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”
3.	The Oudh Laws Act, 1876 (18 of 1876). Rules to be laid before State Legislature.	After section 40, the following section shall be inserted, namely:— “41. Every rule made by the State Government under section 39, and every rule made by the High Court under section 27 shall be laid, as soon as may be after it is made, before the State Legislature.”
4.	The Reformatory Schools Act, 1897 (8 of 1897).	In section 26, after sub-section (2), the following sub-sections shall be inserted, namely:— “(3) Every rule made by the State Government under this Act shall be published in the Official Gazette. (4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”
5.	The Banaras Hindu University Act, 1915 (16 of 1915).	In section 19, after sub-section (3), the following sub-sections shall be inserted, namely:— “(4) Every Statute, Ordinance and Regulation made under this Act shall be published in the Official Gazette. (5) Every Statute, Ordinance and Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the

Sl. No.	Short title	Amendments
		Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”
6.	The Inland Vessels Act, 1917 (1 of 1917).	In section 74, after sub-section (3), the following sub-section shall be inserted, namely:— “(4) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”
7.	The Aligarh Muslim University Act, 1920 (40 of 1920). Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.	After section 31, the following section shall be inserted, namely:— “32. (1) Every Statute, Ordinance and Regulation made under this Act shall be published in the Official Gazette. (2) Every Statute, Ordinance and Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”
8.	The Delhi University Act, 1922 (8 of 1922). Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.	After section 32, the following section shall be inserted, namely:— “32A. (1) Every Statute, Ordinance and Regulation made under this Act shall be published in the Official Gazette. (2) Every Statute, Ordinance and Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute,

Sl.No.	Short title	Amendments
		Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”.
9.	The Sugar-cane Act, 1934 (15 of 1934). Rules to be laid before State Legislature.	After section 8, the following section shall be added, namely:— “9. Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.
10.	The War Injuries (Compensation Insurance) Act, 1943 (23 of 1943).	In section 20, after sub-section (2), the following sub-section shall be inserted, namely:— “(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.
11.	The Drugs (Control) Act, 1950 (26 of 1950).	In section 17, after sub-section (2), the following sub-sections shall be inserted, namely:— “(3) Every rule made under this Act shall be published in the Official Gazette. (4) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.
12.	The Road Transport Corporation Act, 1950.	In section 45, after sub-section (2), the following sub-sections shall be inserted, namely:—

Sl.No.	Short title	Amendments
	(64 of 1950)	“(3) Every rule and regulation made under this Act shall be published in the Official Gazette. (4) Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”
13.	The Visva Bharati Act, 1951 (29 of 1951). Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.	After section 31, the following section shall be inserted, namely:— “31A. (1) Every Statute, Ordinance and Regulation made under this Act shall be published in the Official Gazette. (2) Every Statute, Ordinance and Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”
14.	The Evacuee Interest (Separation) Act, 1951. (64 of 1951).	In section 23, after sub-section (2), the following sub-section shall be added, namely:— “(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”
15.	The Plantations Labour Act, 1951 (69 of 1951).	After section 43, the following section shall be added, namely:—

Sl.No.	Short title	Amendments
	Rules to be published in the Official Gazette and to be laid before State Legislature.	<p>"44. (1) Every rule made under this Act shall be published in the Official Gazette.</p> <p>(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature."</p>
16.	The Salaries and Allowances of Officers of Parliament Act, 1953 (20 of 1953).	<p>In section 11, for sub-section (2) the following sub-sections shall be substituted, namely:—</p> <p>"(2) Every rule made under this Act shall be published in the Official Gazette.</p> <p>(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."</p>
17.	The Displaced Persons (Claims) Supplementary Act, 1954 (12 of 1954).	<p>Section 12 shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—</p> <p>"(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."</p>
18.	The Transfer of Evacuee Deposits Act, 1954 (15 of 1954).	<p>In section 13, after sub-section (2), the following sub-section shall be inserted, namely:—</p> <p>"(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which</p>

Sl.No.	Short title	Amendments
		may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”
19.	The Prize Competitions Act, 1955 (42 of 1955).	<p>In section 20, after sub-section (2), the following sub-section shall be added, namely:—</p> <p>“(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect; as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”</p>
20.	The Personal Injuries, (compensation Insurance) Act, 1963 (37 of 1963).	<p>In section 24, for the marginal heading, the following marginal heading shall be substituted, namely:—</p> <p>“Schemes and rules to be laid before both Houses of Parliament.”</p>
21.	The Jawaharlal Nehru University Act, 1966 (53 of 1966).	<p>After Section 18, the following section shall be inserted, namely:—</p> <p>“18A. (1) Every Statute, Ordinance and Regulation made under this Act shall be published in the Official Gazette.</p> <p>(2) Every Statute, Ordinance and Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute,</p>
	Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.	

Sl.No.	Short title	Amendments
		Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”.
22.	The Insecticides Act, 1968 (46 of 1968).	In section 37, after sub-section (2), the following sub-section shall be inserted, namely:— “(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.”.
23.	The North-Eastern Hill University Act, 1973 (24 of 1973). Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament	After Section 27, the following section shall be inserted, namely:— “27A. (1) Every Statute, Ordinance and Regulation made under this Act shall be published in the Official Gazette. (2) Every Statute, Ordinance and Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”.
24.	The University of Hyderabad Act, 1974 (39 of 1974). Statutes, Ordinances and Regulations to be published in the Official Gazette and to be laid before Parliament.	After Section 27, the following section shall be inserted, namely:— “27A. (1) Every Statute, Ordinance and Regulation made under this Act shall be published in the Official Gazette. (2) Every Statute, Ordinance and Regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree

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		in making any modification in the Statute, Ordinance or Regulation or both Houses agree that the Statute, Ordinance or Regulation should not be made, the Statute, Ordinance or Regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Statute, Ordinance or Regulation.”.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the various Acts mentioned in the Schedule thereto mainly for the purpose of giving effect to the recommendations of the Committee on Subordinate Legislation regarding publication and laying of rules and other delegated legislation.

2. The Bill seeks to achieve the above objects.

NEW DELHI;
The 18th December, 2003.

ARUN JAITLEY.

III**BILL NO. LXXV OF 2003**

A Bill to amend the Arbitration and Conciliation Act, 1996.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title
and
commencement

1. (1) This Act may be called the Arbitration and Conciliation (Amendment) Act, 2003.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act, and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

26 of 1996.

2. In the long title to the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the principal Act), after the words "domestic arbitration", the words "international arbitration," shall be inserted.

Amendment of long title.

3. In section 1 of the principal Act, in sub-section (2), in the proviso, before the words "international commercial arbitration", the words "international arbitration," shall be inserted.

Amendment of section 1.

4. In section 2 of the principal Act,—

Amendment of section 2.

(a) in sub-section (1),—

(i) after clause (b), the following clause shall be inserted, namely:—

'(ba) "Arbitration Division" means an Arbitration Division of a High Court constituted under sub-section (1) of section 37A;';

(ii) for clauses (e) and (f), the following clauses shall be substituted, namely:—

'(e) "Court", in relation to—

(i) sections other than sections specified in sub-clause (ii), means—

(a) the principal Civil Court of original jurisdiction in a district; or

(b) the Court of principal judge of the City Civil Court of original jurisdiction in a city; or

(c) any Court of coordinate jurisdiction to which the Court referred to in sub-clause (a) or sub-clause (b) transfers a matter brought before it,

and includes the High Court in exercise of its ordinary original civil jurisdiction, having jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit, but does not include any Civil Court of a grade inferior to such principal Civil Court or Court of principal judge of the City Civil Court, or any Court of Small Causes; and

(ii) sections 34, 34A and 36, means the Arbitration Division;

(ea) "domestic arbitration" means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, where none of the parties is—

(i) an individual who is a national of, or habitually resident in, any country other than India; or

(ii) a body corporate which is incorporated in any country other than India; or

(iii) an association or a body of individuals whose central management and control is exercised in any country other than India; or

(iv) the Government of a foreign country,

where the place of arbitration is in India and shall be deemed to include international arbitration and international commercial arbitration where the place of arbitration is in India;

(eb) "international arbitration" means an arbitration relating to disputes arising out of legal relationships, whether contractual or not, where at least one of the parties is—

(i) an individual who is a national of, or habitually resident in, any country other than India; or

(ii) a body corporate which is incorporated in any country other than India; or

(iii) an association or a body of individuals whose central management and control is exercised in any country other than India; or

(iv) the Government of a foreign country;

(f) "international commercial arbitration" means an international arbitration considered as commercial under the law in force in India;

(fa) "judicial authority" includes any quasi-judicial statutory authority;";

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) (a) Save as otherwise provided in clause (b), this Part shall apply where the place of arbitration is in India.

(b) Sections 8, 9 and 27 of this Part shall apply to international arbitration (whether commercial or not) where the place of arbitration is outside India or where such place is not specified in the arbitration agreement."

Insertion of new section 2A.

5. After section 2 of the principal Act, the following section shall be inserted, namely:—

Power of principal Civil Court, etc., to transfer matters.

"2A. The principal Civil Court of original jurisdiction in a district or the Court of principal judge of the City Civil Court of original jurisdiction in a city, as the case may be, may, from time to time, transfer any matter relating to any proceedings under this Act which is pending before it, to any Court of coordinate jurisdiction in the district or the city, as the case may be, for decision."

Amendment of section 5.

6. In section 5 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

'Explanation.— For the removal of doubts, it is hereby declared that the expression "any other law for the time being in force" shall be deemed to include—

(a) the Code of Civil Procedure, 1908;

(b) any law which provides for internal appeals within the High Court;

(c) any enactment which provides for intervention by a judicial authority in respect of orders passed by any other judicial authority.'.

5 of 1908.

Amendment of section 6.

7. In section 6 of the principal Act, the words, " , or the arbitral tribunal with the consent of the parties," shall be omitted.

Amendment of section 7.

8. In section 7 of the principal Act, in sub-section (4), in clause (b), for the words "an exchange of letters", the words "any written communication by one party to another and accepted expressly or by implication by the other party, exchange of letters" shall be substituted.

Amendment of section 8.

9. In section 8 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

"(1) Subject to the provisions of sub-sections (4) and (5), a judicial authority before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so applies not later than when submitting

his first statement on the substance of the dispute unless such judicial authority has to decide any question referred to in sub-section (4) as a preliminary issue, refer the parties to arbitration.

(1A) The judicial authority before which an action is brought shall stay the action before it for the purpose of deciding any question raised before it under sub-section (4) and such stay shall be subject to the outcome of the order that may be made under sub-section (4) or sub-section (5).";

(b) in sub-section (3), the following proviso shall be inserted at the end, namely:—

"Provided that the arbitration proceeding so commenced shall stand terminated if the judicial authority, after hearing all the parties, makes an order under sub-section (4) to the effect that—

(i) a reference to arbitration cannot be made by virtue of its finding on any question referred to in clauses (a) to (d) of that sub-section; or

(ii) though a reference to arbitration has to be made, the proceedings are required to be conducted by a different arbitral tribunal.";

(c) after sub-section (3), the following sub-sections shall be inserted, namely:—

"(4) Where an application is made to the judicial authority by a party raising any question that—

(a) there is no dispute in existence; or

(b) the arbitration agreement or any clause thereof is null and void or inoperative; or

(c) the arbitration agreement is incapable of being performed; or

(d) the arbitration agreement is not in existence,

the judicial authority may, subject to the provisions of sub-section (5), decide the same and pass appropriate orders thereon.

(5) Where the judicial authority finds that any question specified in sub-section (4) cannot be decided for the reason that—

(a) the relevant facts or documents on the question are in dispute; or

(b) there is a need for adducing oral evidence from the question; or

(c) the inquiry into any such question is likely to delay reference to arbitration; or

(d) the request for deciding the question was unduly delayed; or

(e) the decision on the question is not likely to produce substantial savings in the costs of arbitration; or

(f) there is no good reason for deciding the question at that stage,

it shall refuse to decide the question and refer the same to the arbitral tribunal for decision.

(6) If the judicial authority holds that though the arbitration agreement is in existence but it is null and void or inoperative or incapable of being performed and refuses to stay the legal proceedings, any provision in the arbitration agreement which provides that the award is a condition precedent for the initiation of legal proceedings in respect of any matter, shall be of no effect in relation to the proceedings."

Insertion of new section 8A.

10. After section 8 of the principal Act, the following section shall be inserted, namely:—

Parties in pending legal proceedings may agree to seek arbitration.

‘8A. Without prejudice to the provisions of section 89 of the Code of Civil Procedure, 1908, where, at any stage of a legal proceeding in the Supreme Court or the High Court or the principal Civil Court of original jurisdiction in a district or the Court of principal judge of the City Civil Court of original jurisdiction in a city or any Court of coordinate jurisdiction or inferior in grade to the aforesaid Courts, as the case may be, all the parties to such proceeding enter into an arbitration agreement to resolve their disputes, then the Court in which the said legal proceeding is pending shall, on an application made by any party to the arbitration agreement, refer the dispute in relation to the subject-matter of the legal proceeding, to arbitration.

5 of 1908.

Explanation.— For the purposes of this section, “legal proceeding” means any proceeding involving civil rights of parties pending in any of the aforesaid Courts whether at the stage of institution or appeal or revision and includes proceeding involving civil rights instituted in a High Court under article 226 or article 227 of the Constitution or on further appeal to the Supreme Court.’

Substitution of new section for section 9.

11. For section 9 of the principal Act, the following section shall be substituted, namely:—

Interim measures, etc., by Court.

“9. (1) A party may, before or during arbitral proceedings or at any time after the making of the arbitral award but before application is filed for its enforcement in accordance with section 36, apply to a Court for interim measures.

(2) The Court shall have the same power for making orders under sub-section (1) as it has for the purpose of, and in relation to, any proceedings before it.

(3) In particular and without prejudice to sub-section (1), a party may apply to a Court—

(a) for the appointment of a guardian for a minor or person of unsound mind for the purposes of arbitral proceedings; or

(b) for an interim measure of protection in respect of any of the following matters, namely:—

(i) the preservation, interim custody or sale of any goods which are the subject-matter of the arbitration agreement;

(ii) securing the amount in dispute in the arbitration;

(iii) the detention, preservation or inspection of any property or thing which is the subject-matter or the dispute in arbitration, or as to which any question may arise therein and authorising for any of the aforesaid purposes any person to enter upon any land or building in the possession of any party or authorising any samples to be taken or any observation to be made, or experiment to be tried, which may be necessary or expedient for the purpose of obtaining full information or evidence;

(iv) interim injunction or the appointment of a receiver; or

(v) such other interim measure of protection as may appear to the Court to be just and convenient.

(4) Where a party makes an application under sub-section (1) for the grant of interim measures before the commencement of arbitration, the Court shall direct the party in whose favour the interim measure is granted, to take effective steps for the appointment of the arbitral tribunal in accordance with the procedure specified in section 11, within a period of thirty days from the date of such direction.

(5) The Court may direct that if the effective steps are not taken within the period specified in sub-section (4), the interim measure granted under sub-section (2), shall stand vacated on the expiry of the said period:

Provided that the Court may, on sufficient cause being shown for the delay in taking such steps, extend the said period.

(6) Where an interim measure granted stands vacated under sub-section (5), the Court may pass such further direction as to restitution as it may deem fit against the party in whose favour the interim measure was granted under this section."

12. In section 11 of the principal Act,—

Amendment
of section 11.

(a) in sub-section (4),—

(i) in clauses (a) and (b), for the words "thirty days", the words "sixty days" shall be substituted;

(ii) for the words "the appointment shall be made, upon request of a party by the Chief Justice or any person or institution designated by him", the words "the right to make such appointment shall be deemed to have been waived, and the appointment shall be made, upon request of a party by the High Court or any person or institution designated by it" shall be substituted;

(b) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Failing any agreement referred to in sub-section (2), in an arbitration with a sole arbitrator, if the parties fail to agree on the arbitrator within sixty days from receipt of a request by one party from the other party to so agree, then the right to make such appointment shall be deemed to have been waived if such appointment is not made within the said period and, the appointment shall be made by the High Court or any person or institution designated by it.";

(c) in sub-section (6), for the words "a party may request the Chief Justice or any person or institution designated by him", the words "and where no measures are taken for appointment of an arbitrator in accordance with the appointment procedure agreed upon by the parties, the right to take such measures shall be deemed to have been waived and a party may request the High Court or any person or institution designated by it" shall be substituted;

(d) in sub-section (7), for the words "the Chief Justice or the person or institution designated by him", the words "the High Court or any person or institution designated by it" shall be substituted;

(e) in sub-section (8), for the words "The Chief Justice or the person or institution designated by him", the words "The High Court or any person or institution designated by it" shall be substituted;

(f) in sub-section (9), for the words "international commercial arbitration, the Chief Justice of India or the person or institution designated by him", the words and brackets "international arbitration (whether commercial or not), the Supreme Court or any person or institution designated by it" shall be substituted;

(g) in sub-section (10), for the words "The Chief Justice may make such scheme as he may deem appropriate", the words "The High Court may make such scheme as it may deem appropriate" shall be substituted;

(h) in sub-section (11), for the words "the Chief Justice of different High Courts or their designates, the Chief Justice or his designate to whom the request has been first made under the relevant sub-section shall alone be", the words "different High Courts or their designates, the High Court or its designate to which the request has been first made under the relevant sub-section shall alone be" shall be substituted;

(i) for sub-section (12), the following sub-sections shall be substituted, namely:—

(12) (a) Where the matters referred to in sub-sections (4), (5), (6), (7), (8) and (10) arise in an international arbitration (whether commercial or not) the reference to "High Court" in those sub-sections shall be construed as a reference to the "Supreme Court".

(b) Where the matters referred to in sub-sections (4), (5), (6), (7), (8) and (10) arise in any other arbitration, the reference to "High Court" in those sub-sections shall be construed as a reference to the "High Court" within whose local limits the principal Civil Court or the Court of principal judge of the City Civil Court, as the case may be, referred in sub-clause (i) of clause (e) of sub-section (1) of section 2, is situate and, where the High Court itself is the Court referred to in that sub-clause, to that High Court.

(13) Where an application under this section is made to the Supreme Court or the High Court by a party raising any question specified to in sub-section (4) of section 8, the Supreme Court or the High Court, as the case may be, may, subject to the provisions of sub-section (14), decide the same.

(14) If the Supreme Court or the High Court, as the case may be, considers that the questions referred to in sub-section (13) cannot be decided having regard to the reasons specified in sub-section (5) of section 8, it shall refuse to decide the said question and refer the same to the arbitral tribunal.

(15) The Central Government may, after consultation with the Chief Justice of India, prescribe by rules made under this Act the manner in which fee of members of an arbitral tribunal be fixed and the procedure to be followed in relation to fixation of such fee.

Amendment of section 12.

13. In section 12 of the principal Act, in sub-section (1), for the words "any circumstances likely", the words "the existence of any past or present relationship, either direct or indirect, with any of the parties or any of their counsel, whether financial, business, professional, social or other kind or in relation to the subject-matter in dispute, which is likely" shall be substituted.

Amendment of section 14.

14. In section 14 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) Where the mandate of the arbitrator is terminated, the Court may decide the quantum of fee payable to such arbitrator."

Amendment of section 15.

15. In section 15 of the principal Act,—

(a) in sub-section (2), for the words "a substitute arbitrator shall be appointed", the words "a substitute arbitrator shall be appointed within a period of thirty days" shall be substituted;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

"(5) Where the mandate of an arbitrator is terminated, the Court may decide the quantum of fee payable to such arbitrator."

Substitution of new section for section 17.

16. For section 17 of the principal Act, the following section shall be substituted, namely:—

Directions by arbitral tribunal.

"17. The arbitral tribunal may, pending arbitral proceedings,—

(a) direct the other party, at the request of a party, to take steps for the protection of the subject-matter of the dispute in the manner considered necessary by it; or

(b) direct a party to provide appropriate security in connection with the directions issued under clause (a); or

(c) direct a party, making any claim, to furnish security for the costs of the arbitration; or

(d) give directions in relation to any property which is the subject-matter of the arbitral proceedings and which is owned by or is in possession of a party to the proceedings—

(i) for the inspection, photographing, preservation, custody or detention of the property by the arbitral tribunal, by an expert or by a party; or

(ii) for samples to be taken from, or any observation to be made of, or experiment conducted upon, the property; or

(e) direct that a party or witness shall be examined on oath or affirmation, and may for that purpose administer any necessary oath or take any necessary affirmation; or

(f) give directions to a party for the preservation of any evidence in his custody or control for the purposes of the proceedings.”

17. For section 20 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 20.

“20. Where the arbitration is one under this Part, the place of arbitration shall be within India and in other cases the parties are free to agree on the place of arbitration:

Place of arbitration.

Provided that where the parties fail to agree, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties:

Provided further that the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of documents, goods or other property.”

18. In section 23 of the principal Act, for sub-section (I), the following sub-sections shall be substituted, namely:—

Amendment of section 23.

“(I) Within the period of time that may be determined by the arbitral tribunal, the claimant shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defence in respect of these particulars and the claimant may file his rejoinder, if any, and the parties shall abide by the time schedule so determined by the arbitral tribunal, unless the tribunal extends such time schedule.

(IA) The arbitral tribunal shall endeavour to expedite the arbitral process subject to such rules as may be made by the High Court in this behalf.”

19. In section 24 of the principal Act, for sub-section (I), the following sub-sections shall be substituted, namely:—

Amendment of section 24.

“(I) Subject to such rules as may be made by the High Court in this behalf, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral arguments, or whether the proceedings shall be conducted on the basis of documents and other materials, or to receive affidavit in lieu of oral evidence subject to the witness being examined orally:

Provided that the arbitral tribunal may, at an appropriate stage of the proceedings, hold oral hearings for the purpose of calling for such oral evidence as it may deem necessary.

(IA) Subject to the provisions of sub-section (I), the arbitral tribunal shall pass orders regarding following the procedure before it.

(1B) Without prejudice to the provisions of sub-section (1A), the power of the arbitral tribunal to pass orders shall include—

- (a) the fixing of the time schedule for the parties to adduce oral evidence, if any;
- (b) the fixing of the time schedule for oral arguments;
- (c) the manner in which oral evidence is to be adduced;
- (d) the decision as to whether the proceedings shall be conducted only on the basis of documents and other materials, or in any other manner.

(1C) The procedure determined by the arbitral tribunal under sub-section (1A) and the time schedule fixed under sub-section (1B) shall be binding on the parties.”

Insertion of
new sections
24A and 24B.

Power of
arbitral
tribunal to
enforce its
directions
made under
section 17 or
time schedules
determined
under section
23 or orders
passed under
section 24.

20. After section 24 of the principal Act, the following sections shall be inserted, namely:—

“24A. (1) If a party fails, without showing sufficient cause, to comply with a directions made under section 17, or time schedule determined under section 23 or orders passed under section 24, as the case may be, the arbitral tribunal may make a peremptory order to the same effect, prescribing such time for compliance as it considers appropriate.

(2) If a claimant fails to comply with a peremptory order made under sub-section (1) in relation to a direction specified in clause (c) of section 17, the arbitral tribunal may dismiss his claim and make an award accordingly.

(3) If a party fails to comply with any peremptory order made under sub-section (1), other than the peremptory order in relation to a direction specified in clause (c) of section 17, then the arbitral tribunal may—

(a) make such order as it thinks fit as to payment of costs of the arbitral proceedings incurred in consequence of the non-compliance;

(b) direct that the party in default shall not be entitled to rely upon any allegations in his pleadings or upon any material which was the subject-matter of the order;

(c) draw such adverse inference from the act of non-compliance as the circumstances may justify;

(d) proceed to make an award on the basis of such materials as have been provided to it, without prejudice to any action that may be taken under section 25.

24B. (1) Without prejudice to the power of the Court under section 9, the Court may, on an application made to it by a party, make an order requiring the party to whom the order of the arbitral tribunal was directed, to comply with the peremptory orders of the arbitral tribunal made under sub-section (1) of section 24A.

(2) An application under sub-section (1) may be made by—

(a) the arbitral tribunal, after giving notice to the parties; or

(b) a party to the arbitral proceedings with the permission of the arbitral tribunal, after giving notice to the other parties.

(3) No order shall be made by the Court under sub-section (1), unless it is satisfied that the party to whom the order of the arbitral tribunal was directed, has failed to comply with it within the time fixed in the order of the arbitral tribunal or, if no time was fixed, within a reasonable time.

Power of
Court for
enforcement
of peremptory
orders of
arbitral
tribunal.

(4) Any order made by the Court under sub-section (1) shall be subject to such orders, if any, as may be made by the Court on appeal under clause (b) of sub-section (2) of section 37.”

21. In section 28 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

Amendment of section 28.

“(1) In an arbitration other than international arbitration (whether commercial or not), the arbitral tribunal shall decide the dispute submitted to arbitration in accordance with the substantive law for the time being in force in India.

(1A) In an international arbitration (whether commercial or not), where the place of arbitration is situate in India,—

(i) the arbitral tribunal shall decide the dispute in accordance with the rules of law designated by the parties as applicable to the substance of the dispute;

(ii) any designation by the parties of the law or legal system of a given country shall be construed, unless otherwise expressed, as directly referring to the substantive law of that country and not to its conflict of laws rules;

(iii) failing any designation of the law under clause (i) by the parties, the arbitral tribunal shall apply the rules of law it considers to be appropriate given all the circumstances surrounding the dispute.”

22. In section 29 of the principal Act,—

Amendment of section 29.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any decision of the arbitral tribunal in arbitral proceedings with more than one arbitrator shall be made by a majority of all its members:

Provided that where there is no majority, the award shall be made by the Presiding arbitrator of the arbitral tribunal.”;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) The minority decision shall, if made available within thirty days of the receipt of the decision of the majority, be appended to the award.”.

23. After section 29 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 29A.

“29A. (1) The arbitral tribunal shall make its award within a period of one year from the commencement of arbitral proceedings, or within such extended period specified in sub-sections (2) to (4).

(2) The parties may, by consent extend the period, specified in sub-section (1) for making award, for a further period not exceeding one year.

(3) If the award is not made, within the period specified in sub-section (1) or the extended period under sub-section (2), the arbitral proceedings shall, subject to the provisions of sub-sections (4) to (6), stand suspended until an application for extension or further extension of the period is made to the Court by any party to the arbitration, or where none of the parties makes an application as aforesaid, until such an application is made by the arbitral tribunal.

(4) Upon filing of the application for extension or further extension of the period under sub-section (3), the suspension of the arbitral proceedings shall stand revoked and pending consideration of the application by the Court under sub-section (5), the arbitral proceedings shall continue before the arbitral tribunal and the Court shall not grant any stay of the arbitral proceedings.

Speeding up of proceedings and time limit for making awards.

(5) The Court shall, upon application for extension of the period being made under sub-section (3), whether the time for making the award as aforesaid has expired or not and whether the award has been made or not, extend the period for making the award beyond the period referred to in sub-section (1) or sub-section (2).

(6) The Court shall, while extending the time under sub-section (5), after taking into account,—

- (a) the extent of work already completed;
- (b) the reasons for delay;
- (c) the conduct of the parties or of any person representing the parties;
- (d) the manner in which proceedings were conducted by the arbitral tribunal;
- (e) the further work involved;
- (f) the amount of money already spent by the parties towards fee and expenses of arbitration;
- (g) any other relevant circumstances which the Court may consider necessary,

make such order as to costs and as to the future procedure to be followed by the arbitral tribunal with a view to speed up the arbitral process till the award is made:

Provided that any order made by the Court as to the future arbitral proceedings shall be subject to such rules as may be made by the High Court for expediting the arbitral proceedings.

(7) The parties shall not by consent extend the period for making award beyond the period specified in sub-section (2) and save as otherwise provided in that sub-section, any provision in an arbitration agreement whereby the arbitral tribunal may further extend the time for making the award, shall be void and be of no effect.

(8) The first of the orders of extension under sub-section (5) together with directions if any, under sub-section (6), shall be made by the Court, within a period of thirty days from the date of service of notice on the opposite party.”

Amendment of
section 31.

24. In section 31 of the principal Act, in sub-section (7), for clause (b), the following clause shall be substituted, namely:—

“(b) A sum directed to be paid by an arbitral award shall carry interest at such rate as the arbitral tribunal deems reasonable from the date of award to the date of payment.”

Insertion of
new section
33A.

25. After section 33 of the principal Act, the following section shall be inserted, namely:—

‘33A. (1) A photocopy of the arbitral award duly signed on each page by the members of the arbitral tribunal together with the original arbitral records shall be filed by the arbitral tribunal in the Court within sixty days of the making of the award along with a list of the papers comprising the arbitral record:

Provided that where the High Court is the Court within the meaning of sub-clause (i) of clause (e) of sub-section (1) of section 2, then the award shall be filed in the principal Civil Court of original jurisdiction in a district or in the Court of principal judge of the City Civil Court of original jurisdiction in a city within whose local jurisdiction the subject-matter of arbitration is situate (hereafter in this section referred to as the said Court).

Explanation 1.— For the removal of doubts, it is hereby declared that for the purposes of this section, “arbitral award” means the arbitral award whether passed

Filing of a
copy of award
and original
arbitral records
in Court.

pursuant to a reference made by a judicial authority under section 8, or by any of the Courts referred to in section 8A, or by the parties or by the High Court or by the Supreme Court under section 11, or by the parties to a Fast Track Arbitration under section 43C.

Explanation 2.— For the purposes of this section, “arbitral records” shall include the pleadings in the claim filed by the parties, documentary evidence, oral evidence if recorded, pleadings in interlocutory applications, pleadings and orders on interlocutory applications, proceedings of the arbitral tribunal and all other papers relating to the arbitral proceedings.

(2) Where the arbitral tribunal fails to file photocopy of the arbitral award and the arbitral records under sub-section (1), any of the parties may give notice to the arbitral tribunal to do so within a period of sixty days from the date of receipt of the award failing which, the party may request the said Court to direct the arbitral tribunal to file photocopy of the arbitral award and the arbitral records in the said Court.

(3) Upon filing of photocopy of the arbitral award and the arbitral records under sub-section (1) or sub-section (2), the presiding officer of the said Court or a ministerial officer of the said Court designated by such presiding officer, shall affix his signature with date and seal of the said Court on each page of the photocopy of the arbitral award and shall acknowledge receipt of the arbitral award and the arbitral records, after verification with the list referred to in sub-section (1).

(4) The said Court shall maintain a register containing—

- (a) the names and addresses of the parties to the award;
- (b) the date of the award;
- (c) the names and addresses of the arbitrators;
- (d) the relief granted;
- (e) the date of filing of the award into the said Court; and

(f) such other particulars as may be prescribed by rules made by the Central Government in this behalf.

(5) If any party makes an application for a copy, the Court may grant a certified copy of photocopy of the arbitral award or of the arbitral records or of the arbitral proceedings, as the case may be, in accordance with the rules of the Court.

(6) The Court may transmit the arbitral records for use in any proceedings for setting aside the arbitral award or for enforcement thereof.

(7) The procedure for return of original documents or for preservation of the arbitral records so filed shall be subject to such rules as may be applicable to the said Court from time to time.

(8) The filing of photocopy of the award under this section shall be only for the purposes of record.¹

Amendment of
section 34.

26. In section 34 of the principal Act,—

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Recourse to a Court against an arbitral award may be made only by an application for setting aside such award –

(a) in accordance with sub-sections (2) and (3); and

(b) in the case of an award made in an arbitration other than an international arbitration (whether commercial or not) in accordance with sub-sections (2) and (3), and section 34A.

(1A) An application for setting aside an award under sub-section (1) shall be accompanied by the original award:

Provided that where the parties have not been given the original award, they may file a photocopy of the award signed by the arbitrators.”;

(b) in sub-section (2).—

(i) in clause (b), after sub-clause (ii), the following sub-clause shall be inserted, namely:—

“(iii) the arbitral award is such which does not state the reasons as required under sub-section (3) of section 31.”;

(ii) The *Explanation* shall be renumbered as *Explanation 1* and after *Explanation 1* as so renumbered, the following *Explanation* shall be inserted, namely:—

“*Explanation 2.*— For the removal of doubts, it is hereby declared that while seeking to set aside an arbitral award under sub-section (1), the applicant may include the pleas questioning the decision of the arbitral tribunal rejecting—

(i) a challenge made under sub-section (2) of section 13;

(ii) a plea made under sub-section (2) or sub-section (3) of section 16.”;

(c) after sub-section (4), the following sub-sections shall be inserted, namely:—

(5) Where the Court adjourns the proceedings under sub-section (4) granting the arbitral tribunal an opportunity to resume its proceedings or take such other action and eliminate the grounds referred to in this section or in section 34A for setting aside the award, the arbitral tribunal shall pass appropriate orders within sixty days from the receipt of the request made under sub-section (4) by the Court and send the same to the Court for its consideration.

(6) Any party aggrieved by the orders of the arbitral tribunal under sub-section (5), shall be entitled to file its objections thereto within thirty days from the receipt of the said order from the arbitral tribunal and the application made under sub-section (1) to set aside the award shall, subject to the provisions of sub-sections (2) and (3) of section 37C, be disposed of by the Court, after taking into account the orders of the arbitral tribunal made under sub-section (5) and the objections filed under that sub-section.

Explanation 1.—Subject to clause (i) of sub-section (4) of section 42, for the purposes of this section and sections 34A and 36, the word “Court” means the Arbitration Division.

Explanation 2.—For the purposes of this section, clause (b) of sub-section (2) of section 48 and clause (e) of sub-section (1) of section 57, “public policy of India” or “Contrary to public policy of India” means contrary to (i) fundamental policy of India, or (ii) interests of India, or (iii) justice or morality.”.

27. After section 34 of the principal Act, the following section shall be inserted, namely:—

“34A. (1) In the case of an arbitral award made in an arbitration other than an international arbitration (whether commercial or not), recourse to a court against an arbitral award on the additional ground that there is an error which is apparent on the face of the arbitral award giving rise to a substantial question of law can be had in an application for setting aside an award referred to in sub-section (1) of section 34.

Insertion of
new section
34A.
Additional
ground of
challenge in
case of certain
awards.

(2) Where the ground referred to in sub-section (1) is invoked in an application filed under sub-section (1) of section 34, the applicant shall file a separate application seeking leave of the Court to raise the said ground:

Provided that the Court shall not grant leave unless it is *prima facie* of the opinion that all the following conditions are satisfied, namely:—

“(a) that the determination of the question will substantially affect the rights of one or more parties;

(b) that the substantial question of law was one which the arbitral tribunal was asked to decide or has decided on its own; and

(c) that the application made for leave identifies the substantial question of law to be decided and states relevant grounds on which leave is sought.

(3) Where a specific question of law has been referred to the arbitral tribunal, an award shall not be set aside on the ground referred to in sub-section (1).”

28. For section 36 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 36.

“36. (1) Where the time for making an application to set aside the arbitral award under sub-section (1) of section 34 has expired, then, subject to the provisions of sub-sections (2) to (4), the award shall be enforced under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the Court.

Stay of operation of awards or its enforcement.

5 of 1908.

(2) Where an application is filed in the Court under sub-section (1) of section 34 to set aside an arbitral award, the filing of such an application shall not by itself operate as a stay of the award unless, upon a separate application made for that purpose, the Court grants stay of the operation of the award in accordance with the provisions of sub-section (3).

(3) Upon filing of the separate application under sub-section (2) for stay of the operation of the award, the Court may, without prejudice to any action it may take under sub-section (1) of section 37C and subject to such conditions as it may deem fit to impose, grant stay of the operation of the arbitral award for reasons in brief to be recorded in writing:

Provided that the Court shall, while considering the grant of stay, keep the grounds for setting aside the award in mind.

(4) The power to impose conditions referred to in sub-section (3) includes the power to grant interim measures not only against the parties to the award or in respect of the property which is the subject-matter of the award but also to issue *ad interim* measures against third parties or in respect of property which is not the subject-matter of the award, in so far as it is necessary to protect the interests of the party in whose favour the award is passed.

(5) The *ad interim* measures granted under sub-section (4) may be confirmed, modified or vacated, as the case may be, by the Court subject to such conditions, if any, as it may, after hearing the affected parties, deem fit.”

29. In section 37 of the principal Act,—

Amendment of section 37.

(i) in sub-section (1), clause (b) shall be omitted;

(ii) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The procedure specified in sections 37C, 37D, 37E and 37F shall, in so far as may be, apply to appeals under sub-section (1) or sub-section (2).”

Insertion of
new Chapter
IXA in Part I

30. After Chapter IX of the principal Act, the following Chapter shall be inserted, namely:—

“CHAPTER IX A

ARBITRATION DIVISION, JURISDICTION AND SPECIAL PROCEDURE

Arbitration
Division and
its jurisdiction.

37A. (1) Every High Court shall, as soon as may be after the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, constitute an Arbitration Division within the High Court.

(2) The Judges of the Arbitration Division shall be such of the Judges of the High Court as the Chief Justice of that High Court may, from time to time, nominate.

Explanation.—For the purposes of this sub-section, “Judges” shall include Judges appointed under article 224A of the Constitution.

(3) Without prejudice to the provisions of section 37F, the Arbitration Division shall consist of one or more Division Benches of the High Court, as may be constituted by the Chief Justice of the High Court and such Bench or Benches shall dispose of every application, appeal or proceeding allocated to it.

(4) Every application under section 34 or section 34A or section 36 shall, on and from the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, irrespective of the value of the subject-matter, be filed in the High Court having original jurisdiction to decide the questions forming the subject-matter of the arbitration if the same had been the subject-matter of a suit on its original civil jurisdiction and in other cases, in the High Court having jurisdiction to hear appeals from decrees of Courts subordinate to such High Court and the said applications shall thereafter be allocated to the Arbitration Division of that High Court for disposal.

(5) Any appeal under clause (i), or clause (ii), or clause (iii), or clause (vi) of sub-section (1) of section 39 of the Arbitration Act, 1940 or any proceeding for execution of a decree based on an arbitral award under that Act shall, notwithstanding anything contained in that Act, irrespective of the value of the subject-matter, be filed, on and from the commencement of the Arbitration and Conciliation (Amendment) Act, 2003 in the High Court referred to in sub-section (4) and shall thereafter be allocated to the Arbitration Division of that High Court, for disposal in accordance with the provisions of the Arbitration Act, 1940.

10 of 1940.

Pending
matters to be
transferred to
Arbitration
Division.

37B. (1) Any application under section 34 or section 36 pending in any Court subordinate to the High Court immediately before the commencement of the Arbitration and Conciliation (Amendment) Act, 2003 shall, on such commencement, stand transferred to the High Court having jurisdiction over such subordinate Courts and shall thereafter be allocated to the Arbitration Division of that High Court for disposal.

(2) Any application under section 34 or section 36 or appeal under clause (b) of sub-section (1) of section 37 filed immediately before the commencement of the Arbitration and Conciliation (Amendment) Act, 2003 and pending in the High Court shall, on and from such commencement, be allocated to the Arbitration Division of that High Court for disposal.

(3) Any appeal or proceeding referred to in sub-section (5) of section 37A pending in any Court subordinate to the High Court shall, on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, stand transferred to the High Court having jurisdiction over such subordinate Court and shall thereafter be allocated to the Arbitration Division of that High Court for disposal in accordance with the provisions of the Arbitration Act, 1940.

10 of 1940.

10 of 1940.

(4) Any appeal or proceeding referred to in sub-section (5) of section 37A, pending in the High Court shall, on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, be allocated to the Arbitration Division of that High Court for disposal in accordance with the provisions of the Arbitration Act, 1940.

37C. (1) The Arbitration Division, while dealing with an application under sub-section (1) of section 34, or any appeal referred to in sub-section (5) of section 37A, filed on and from the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, may, if it thinks fit so to do, and after fixing a date for hearing the applicant or his counsel and hearing him accordingly if he appears on that day, dismiss the application or appeal, as the case may be, without giving notice to the respondent, for reasons in brief to be recorded in writing, if there are no merits in the application or appeal.

Substantial prejudice to be shown, for intervention in applications under section 34 and appeals under section 37A.

(2) No award passed by the arbitral tribunal shall be set aside, on an application under sub-section (1) of section 34 or an appeal filed under sub-section (5) of section 37A unless substantial prejudice is shown.

(3) The provisions of sub-sections (1) and (2) shall also apply to an applications under sub-section (1) of section 34, an appeal under section 37 or any appeal referred to in sub-section (5) of section 37A, pending on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, if no notice has been issued by the Court before such commencement.

37D. (1) Every application referred to in sub-section (1) of section 34 or section 36 shall be disposed of by the Arbitration Division within one year from the date of service of notice on the opposite party:

Time limit for disposal by Arbitration Division.

Provided that in case the Arbitration Division adjourns the proceedings under sub-section (5) of section 34, the period of one year shall be reckoned from the date of receipt of the order from the arbitral tribunal under that sub-section.

(2) Every appeal or proceeding for execution of decrees referred to in sub-section (5) of section 37A shall be disposed of within one year from the date of service of notice on the opposite party.

(3) Every application, appeal or proceeding referred to in sub-sections (1) to (4) of section 37B, pending on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, shall be disposed of within a period of six months from the date of service of notice on the opposite party or from such commencement, whichever is later.

37E. (1) The applicants or appellants in matters referred to in sub-sections (1) and (2) of section 37D shall, within sixty days from the date of service of notice on the opposite party, file paper books containing relevant documents including copies of oral evidence recorded, if any, and the opposite party shall likewise file a paper book within sixty days from the date of service of notice on such party.

Time limit for filing paper books, written submissions and oral arguments.

(2) The applicants or appellants, in matters referred to in sub-section (3) of section 37D, and the opposite parties shall file paper books within sixty days from the date of service of notice on such parties or from the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, whichever is later.

(3) Within thirty days from the date of filing of the paper books, all parties to the proceedings shall file brief written submissions after exchanging copies of the same.

(4) Where any party fails to comply with the time limits referred to in sub-sections (1) to (3), the Arbitration Division may, if reasonable cause is shown, extend the time for a further period not exceeding thirty days, subject, however, to such order as to costs as it may deem fit.

(5) In all matters coming up before the Arbitration Division, time limit for arguments shall be fixed by the Arbitration Division in advance at the case management conference referred to in sub-section (2) of section 37F.

Case management procedures before single Judge.

37F. (1) Save, where conditional orders are passed which may lead to disposal of the matter for default or *ex parte*, a single Judge sitting in the Arbitration Division shall deal with the fixation of time schedules and dates for the purposes of section 37E.

(2) For the purposes of sub-section (1), case management conferences may be held by the Judge referred to in that sub-section.”.

Substitution of new section for section 42.

31. For section 42 of the principal Act, the following sections shall be substituted, namely :—

Proper Court for filing subsequent applications.

42. (1) Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part is made in any of the Courts referred to in sub-sections (2) to (7) or in the Court referred to in section 43E, then all subsequent applications [other than the applications referred to in sub-section (2) of section 33A] arising out of that agreement and the arbitral proceedings (hereafter in this section referred to as the subsequent application) shall be made in the same Court in which the application was made and in no other Court.

(2) Where an application is made in a Court within the meaning of sub-clause (i) of clause (e) of sub-section (1) of section 2, the subsequent applications shall be made in that Court and in no other Court.

(3) Where, in an action under section 8 pending before a judicial authority, an application is made seeking reference to arbitration with respect to an agreement, then the subsequent applications shall be made in the following manner, namely:—

(i) if the judicial authority is a Court within the meaning of sub-clause (i) of clause (e) of sub-section (1) of section 2, the subsequent application shall be made in the Court in which the application is made and in no other Court;

(ii) if the judicial authority is a Court which is inferior in grade to the principal Civil Court of original jurisdiction in a district or the Court of principal judge of the City Civil Court exercising original jurisdiction in a city (hereinafter referred to as the principal Courts), as the case may be, the subsequent application shall be made in the said principal Court to which the Court where the application is made is subordinate and in no other Court;

(iii) if the judicial authority is a quasi-judicial statutory authority, the subsequent application shall be made in the principal Court within whose local limits the judicial authority is situate and in no other Court.

(4) Where, in a legal proceeding under section 8A before any of the Courts referred to in that section, an application is made seeking reference to arbitration with respect to an agreement, then the subsequent application shall be made in the following manner, namely:—

(i) if the application is made in the Supreme Court or in the High Court or in the principal Courts referred to in clause (ii) of sub-section (3), as the case may be, the subsequent application shall be made in the Court which made the reference and in no other Court;

(ii) if the application is made in a Court of coordinate jurisdiction or inferior in grade to the principal Courts referred to in clause (ii) of sub-section (3), as the case may be, the subsequent application shall be made in the principal Court from where the legal proceeding was transferred to such Court of coordinate jurisdiction or to which the said Court is subordinate, as the case may be, and in no other Court.

Explanation 1.—In this sub-section, the expression “legal proceeding” shall have the same meaning as assigned to it in the *Explanation* to section 8A.

Explanation 2.—For the removal of doubts, it is hereby declared that in the case of arbitral proceedings which have commenced pursuant to a reference made by the Supreme Court or the High Court under section 8A and award passed pursuant thereto, the reference to “Court” in this Part shall, except in sections 27 and 33A, be construed as reference to the Supreme Court or the High Court, as the case may be.

(5) Where an application, seeking a reference to arbitration with respect to an agreement, is made under section 11 in the Supreme Court or in the High Court, as the case may be, the subsequent application shall be made in the Court within the meaning of sub-clause (i) of clause (e) of sub-section (1) of section 2 and in no other Court.

(6) Where an application is made to the High Court in accordance with section 34, section 34A, section 36 or sub-section (4) of section 37A or where an appeal is preferred in the High Court in accordance with sub-section (5) of section 37A, the subsequent application shall be made in that High Court and in no other Court.

(7) Where application or appeal transferred to the High Court pursuant to section 37B, all subsequent applications shall be made in that High Court and in no other Court.

42A. The Chief Justice of India may prepare a scheme, for constituting a panel of arbitrators to enable either the parties, or the Supreme Court or the High Court under section 11, or the judicial authority under section 8, or the Courts referred to in section 8A, or the parties under section 43A, as the case may be, to appoint arbitrators from such panel and subject to such conditions as may be specified by the Chief Justice of India in that scheme.

Scheme for panel of arbitrators.

42B. Notwithstanding anything contained in any other law for the time being in force, it shall be permissible to initiate any proceedings under this Act, for the purpose of enforcement of any right under sub-section (3) of section 69 of the Indian Partnership Act, 1932 to seek—

Special provision relating to unregistered partnerships.

- (a) the dissolution of a firm;
- (b) the settlement of the accounts of a dissolved firm; or
- (c) the realisation of the property of a dissolved firm.

32. In section 43 of the principal Act,—

Amendment of section 43.

- (a) sub-section (3) shall be omitted;
- (b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) In computing the time specified in the Limitation Act, 1963 for the commencement of proceedings in relation to any dispute, the period between the commencement of the arbitration and the date of the orders mentioned below, shall be excluded, namely:—

- (a) an order of the arbitral tribunal accepting a plea referred to in sub-section (2) or sub-section (3) of section 16;

9 of 1932.

36 of 1963.

(b) an order under clause (a) of sub-section (2) of section 37 by the Court affirming an order under clause (a) or an order of the Supreme Court on further appeal, if any, affirming the last mentioned order;

(c) an order declaring an arbitration agreement as null and void or inoperative or incapable of being performed or as not in existence, passed by—

(i) the High Court under sub-section (13) of section 11 in the case of an arbitration, other than an international arbitration (whether commercial or not) or by the Supreme Court on further appeal;

(ii) the Supreme Court under sub-section (13) of section 11 in the case of international arbitration (whether commercial or not).”.

Insertion of
new sections
43A to 43F.

33. After section 43 of the principal Act, the following sections shall be inserted, namely:—

Speeding up of
pending
proceedings
and time limit
for passing
awards.

‘43A. (1) The arbitral proceedings pending on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003 before an arbitral tribunal—

(a) if such proceedings are pending for more than three years from the date of commencement of such proceedings, shall be completed within a further period of six months from the commencement of the Arbitration and Conciliation (Amendment) Act, 2003 or within such extended period specified in sub-sections (2) and (3);

(b) if such proceedings have not been pending for three years from the date of commencement of the proceedings, the proceedings shall be completed within a further period of one year reckoned from the date of expiry of three years of the commencement of the arbitral proceedings or within such extended period specified in sub-sections (2) and (3).

(2) If the award is not made within the further period of six months or one year, as the case may be, specified in sub-section (1), the arbitral proceedings shall, subject to the provisions of sub-section (3), stand suspended until an application for extension of time is made to the Court by any party to the arbitration or where none of the parties has made an application as aforesaid until such application is made by the arbitral tribunal.

(3) The provisions of sub-sections (4) to (8) of section 29A shall, so far as may be, apply for the disposal of application referred to in sub-section (2), with a view to speed up the arbitral proceedings, till the award is passed.

Speeding up of
all pending
proceedings
and time limit
for passing
awards under
the Arbitration
Act, 1940.

43B. (1) The provisions of sections 6, 23 and 24 shall, so far as may be, apply to arbitral proceedings under the Arbitration Act, 1940, pending on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003 and shall override any provisions of the Arbitration Act, 1940 which are inconsistent with the said sections.

10 of 1940.

(2) In the case of non-compliance with any order passed by the sole arbitrator or arbitrators under the provisions of the Arbitration Act, 1940 or of orders passed under sub-section (1), the sole arbitrator or arbitrators, as the case may be, appointed under the Arbitration Act, 1940 may pass orders under section 24A.

10 of 1940.

(3) In the case of non-compliance with any peremptory order passed by the sole arbitrator or arbitrators, as the case may be, under sub-section (2), the Court, within the meaning of clause (c) of section 2 or section 21 of the Arbitration Act, 1940, as the case may be, may pass orders under section 24B.

10 of 1940.

10 of 1940.

(4) Where arbitral proceedings are pending on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, before the sole arbitrator or arbitrators appointed under the Arbitration Act, 1940, the proceedings shall be completed within a further period of six months from such commencement or within such extended period specified in sub-sections (5) and (6):

Provided that where the arbitral proceedings are stayed by order of a Court, the period during which the proceedings are so stayed shall be excluded while computing the said period of one year.

(5) If the award is not made within the further period specified in sub-section (4), the arbitral proceedings shall, subject to the provisions of sub-section (6), stand suspended until an application for extension of time is made by any party to the arbitration to the Court referred to in sub-section (3), by any party to the arbitration, or where none of the parties has made an application as aforesaid, until such an application is made by the sole arbitrator or arbitrators, as the case may be.

(6) The provisions of sub-sections (4) to (8) of section 29A shall, so far as may be, apply for the disposal of the application referred to in sub-section (5).

(7) The provisions of this section shall have effect notwithstanding anything inconsistent therewith contained in sub-section (2) of section 85.

CHAPTER XI

SINGLE MEMBERS FAST TRACK ARBITRAL TRIBUNAL AND FAST TRACK ARBITRATION

43C. (1) The parties to an action before a judicial authority referred to in section 8, or a legal proceeding before any of the Courts referred to in section 8A, or to an arbitration agreement or to an application before the Supreme Court or the High Court under section 11, as the case may be, may, at any stage either before or at the time of appointment of the arbitral tribunal, agree in writing to have their disputes resolved by arbitration in accordance with the provisions of this Chapter and the procedure specified in the First Schedule (hereinafter referred to as the Fast Track Arbitration).

Resolution of
disputes
through Fast
Track
Arbitration.

(2) If the parties referred to in sub-section (1) agree to have the disputes resolved through Fast Track Arbitration, then the arbitral tribunal agreed to between such parties shall be called the Fast Track Arbitral Tribunal.

(3) Notwithstanding anything contained in the arbitration agreement—

- (i) the Fast Track Arbitral Tribunal shall consist of a sole arbitrator;
- (ii) the sole arbitrator shall be chosen by parties unanimously;
- (iii) the fee payable to the arbitrator and the manner of payment of the fee shall be such as may be agreed between the sole arbitrator and the parties;
- (iv) the procedure set out in the First Schedule (hereinafter referred to as the Fast Track Procedure) shall apply.

43D. The other provisions of this Part, in so far as they are matters not provided in the First Schedule, shall apply to the Fast Track Arbitration as they apply to other arbitrations subject to the following modifications, namely:—

Other
provisions of
the Act to
apply subject
to modifica-
tions.

(a) the references to—

(i) “arbitral tribunal” shall, unless the context otherwise requires, be deemed to include the Fast Track Arbitral Tribunal; and

(ii) “Court” shall be deemed to be the High Court, except in sections 27 and 33A;

(b) in section 33, in sub-sections (1) to (4), for the words "thirty days", wherever they occur, the words "fifteen days" shall be substituted;

(c) in section 34,—

(i) in the proviso to sub-section (3), for the words "three months" and "thirty days", the words "thirty days" and "fifteen days" shall respectively be substituted;

(ii) in sub-section (5), for the words "sixty days", the words "thirty days" shall be substituted;

(iii) in sub-section (6), for the words "thirty days", the words "fifteen days" shall be substituted;

(d) in section 37, sub-section (1), shall be omitted;

(e) in sub-section (1) of section 37D, for the words "one year", the words "six months" shall be substituted.

Proper court
for filing
subsequent
applications.

43E. Notwithstanding anything contained in this Part or in any other law for the time being in force but subject to sub-clause (ii) of clause (a) of section 43D, where with respect to an arbitration agreement, any application is made or is required to be made before a "Court" in the manner mentioned in this Part, such an application shall be made to the "High Court" and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that High Court and in no other High Court and shall be allocated to the Arbitration Division:

Provided that where reference under section 8A has been made for resolution of disputes under this Chapter by the Supreme Court, the subsequent applications shall be filed in the Supreme Court.

High Court for
purposes of
this Chapter.

43F. The references to High Court in sections 43D and 43E shall be construed as a reference to the High Court within whose local limits, the principal Civil Court or the Court of principal judge of the City Civil Court referred to in sub-clause (i) of clause (e) of sub-section (1) of section 2, as the case may be, is situated.'

Amendment of
section 44.

34. In section 44 of the principal Act, in clause (a), for the words "First Schedule", the words "Second Schedule" shall be substituted.

Amendment of
section 47.

35. In section 47 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

'Explanation.— In this section and in all the following sections of this Chapter, "Court" means the Arbitration Division.*'*

Amendment of
section 50.

36. In section 50 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) An appeal shall lie from the order refusing to refer the parties to arbitration under section 45 to the High Court referred to in sub-section (4) of section 37A, and the said appeal shall thereafter be allocated to the Arbitration Division for disposal."

Amendment of
section 53.

37. In section 53 of the principal Act,—

(i) in clause (a), for the words "Second Schedule", the words "Third Schedule" shall be substituted;

(ii) in clause (b), for the words "Third Schedule", the words "Fourth Schedule" shall be substituted.

38. In section 56 of the principal Act, for the *Explanation*, the following *Explanation* shall be substituted, namely:—

Amendment of section 56.

Explanation.— In this section and the following sections of this Chapter, “Court” means the Arbitration Division.’

39. In section 59 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment of section 59.

“(1) An appeal shall lie from the order refusing to refer the parties to arbitration under section 54 to the High Court referred to in sub-section (4) of section 37A, and the said appeal shall thereafter be allocated to the Arbitration Division for disposal.”:

40. After section 60 of the principal Act, the following Chapter shall be inserted, namely:—

Insertion of new Chapter III in Part II.

“CHAPTER III

JURISDICTION OF ARBITRATION DIVISION OF HIGH COURT AND SPECIAL PROCEDURE FOR ENFORCEMENT OF FOREIGN AWARDS

60A. (1) Every application for the enforcement of foreign awards under Chapters I and II of this Part shall, on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, be filed in the High Court as referred to in sub-section (4) of section 37A and the said applications shall thereafter be allocated to the Arbitration Division for disposal.

Jurisdiction of Arbitration Division.

(2) The applications for enforcement of foreign awards made under Chapters I and II of this Part and all appeals under sub-section (1) of section 50 or sub-section (1) of section 59 pending in any Court subordinate to the High Court shall, on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, stand transferred to the High Court having jurisdiction over such subordinate Court and shall thereafter be allocated to the Arbitration Division for disposal.

(3) The applications for enforcement of foreign awards under Chapters I and II of this Part and appeals under sub-section (1) of section 50 and sub-section (1) of section 59 and applications arising there from, pending in a High Court, shall, on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, be allocated to the Arbitration Division for disposal.

60B. (1) Every application referred to in sub-section (1) of section 60A shall be disposed of by the Arbitration Division within a period of one year of service of notice on the opposite party.

Time limit for disposal by Arbitration Division.

(2) Every appeal filed on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, under sub-section (1) of section 50 and sub-section (1) of section 59, on and from such commencement shall be disposed of by the Arbitration Division within a period of sixty days from the date of notice on the opposite party.

(3) The applications for enforcement of foreign awards referred in sub-sections (2) and (3) of section 60A and all appeals against orders refusing to enforce a foreign award under sections 48 and 57, pending on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, shall be disposed of by the Arbitration Division within a period of six months from the date of allocation to the Arbitration Division where notices have been served on the opposite parties on the date of such allocation, and within a period of six months from the date of service of notice on the opposite parties where notices have not been served on the opposite party on the date of such allocation.

(4) The appeals against orders refusing to refer the parties to arbitration under sections 45 and 54, pending on the commencement of the Arbitration and Conciliation

(Amendment) Act, 2003, shall be disposed of by the Arbitration Division within a period of thirty days from the date of allocation to the Arbitration Division where notices have been served on the opposite parties on the date of such allocation and within a period of thirty days from the date of service of notices on the opposite parties where notices have not been served on the opposite parties on the date of such allocation.

(5) The Arbitration Division while dealing with applications and appeals referred in sub-sections (1) and (3) shall, so far as may be, follow the same procedure as laid down in sections 37E and 37F.”

Amendment
of section 82.

41. Section 82 of the principal Act shall be renumbered as sub-section (1) thereof and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

“(2) Without prejudice to the generality of the provisions of sub-section (1), rules may be made in respect of the following matters, namely:—

(a) the manner in which arbitral proceedings shall be conducted;

(b) the number of days for which the arbitral proceedings have to be conducted continuously on each occasion when an arbitral tribunal meets;

(c) the time schedule and the number of hours for which the arbitral proceedings have to be conducted on each day;

(d) the time schedule for the filing of the pleadings for purposes of sub-section (1A) of section 23;

(e) the time schedule in regard to the recording of evidence and submission of arguments for purposes of sub-section (1) of section 24;

(f) the time schedule as to the future procedure to be followed by the arbitral tribunal, referred to in sub-section (6) of section 29A.

(3) The Chief Justice of India may issue guidelines to the High Courts in relation to the matters referred in sub-section (2) and other procedure to be followed by the arbitral tribunal so that uniform rules may be made by all the High Courts.”

Amendment
of section 84.

42. In section 84 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Without prejudice to the generality of the provisions of sub-section (1), rules may be made in respect of the following, namely:—

(a) the manner in which fee of the members of an arbitral tribunal may, after consultation with the Chief Justice of India, be fixed and the procedure relating thereto under sub-section (15) of section 11;

(b) the other particulars required to be entered in the register under clause (f) of sub-section (4) of section 33A.”

Amendment
of First,
Second and
Third
Schedules.

43. The First Schedule, Second Schedule and Third Schedule to the principal Act shall be renumbered as the Second Schedule, Third Schedule and Fourth Schedule and before the Second Schedule as so renumbered, the following Schedule shall be inserted, namely:—

“THE FIRST SCHEDULE (See sections 43C and 43D)

FAST TRACK ARBITRATION

Constitution
of Fast Track
Arbitral
Tribunal.

1. (1) For the purposes of Fast Track Arbitration under sub-section (1) of section 43 C, a Fast Track Arbitral Tribunal shall be deemed to be constituted on the date on which the parties, after obtaining the consent of the sole arbitrator to be appointed,

agree in writing that the sole arbitrator shall be the Fast Track Arbitral Tribunal under sub-section (2) of section 43C.

(2) The parties shall communicate the said agreement to the sole arbitrator on the same day.

2. The procedure specified in this Schedule shall on and from the date of the constitution of a Fast Track Arbitral Tribunal, apply to the Fast Track Arbitration.

Procedure to apply from date of constitution of Fast Track Arbitral Tribunal.

3. (1) Within fifteen days of the constitution of the Fast Track Arbitral Tribunal, the person who has raised the dispute (hereinafter referred to as the claimant) shall send simultaneously to the Tribunal and the opposite party (hereinafter referred to as the respondent)—

Procedure.

(a) a claim statement containing the facts, the points at issue and the relief claimed;

(b) documentary evidence, if any, in support of his case;

(c) a copy of the witness's affidavit where reliance is placed on the testimony of any witness (including that of a party);

(d) a copy of the opinion, along with the particulars relating to the expert, his qualifications and experience where reliance is placed on the opinion of an expert;

(e) a list of interrogatories, if any;

(f) an application for discovery or production of documents, if any, mentioning their relevancy;

(g) full address, including e-mail or fax, telephone numbers, if any, of all claimants and of all the parties, for the purpose of expediting communication and correspondence;

(h) any other material considered relevant by the claimant.

(2) The respondent shall, within fifteen days from the receipt of the claim statement and the documents referred to in sub-paragraph (1), simultaneously send to the Fast Track Arbitral Tribunal as well as to the claimant, his defence statement, together with documentary evidence, witness's testimony by affidavit (including that of a party) and expert opinion, if any, in support thereof, together with counter claims, if any, supported by documents.

(3) The procedure specified in this Schedule shall apply to such counter claims as they apply to a claim.

(4) Within fifteen days from the receipt of the defence statement or the counter claims the claimant shall send to the Fast Track Arbitral Tribunal and to the respondent his rejoinder and statement of defence to the counter claim.

(5) Within fifteen days from the receipt of the defence statement or the counter claim, the respondent shall simultaneously send his rejoinder to the said statement or claim to the Fast Track Arbitral Tribunal as well as to the claimant.

(6) In case discovery or production of documents is allowed, the parties shall be permitted to submit their supplementary statements, if any, to the Fast Track Arbitral Tribunal within the specified period and simultaneously send copies thereof to each other.

(7) The Fast Track Arbitral Tribunal shall decide the disputes on the basis of the pleadings and documents, affidavits of evidence, expert opinion, if any, and the written submission filed by the parties.

(8) The Fast Track Arbitral Tribunal may permit any witness to be orally examined and lay down the manner in which evidence shall be recorded or for receiving affidavits in lieu of oral evidence.

(9) The Fast Track Arbitral Tribunal may otherwise permit oral evidence to be adduced, if it considers that any request for oral evidence by any party is justified or where the Fast Track Arbitral Tribunal considers that such oral evidence is necessary.

(10) The Fast Track Arbitral Tribunal may, in addition, call for any further information or clarification from the parties in addition to the pleadings, documents and evidence placed before it.

Representation
by Counsel.

4. The Fast Track Arbitral Tribunal shall permit the parties to appear and conduct the case personally or through their Counsel or by any person duly authorised by the parties to represent them.

Written notes
of arguments
or oral
arguments.

5. After the conclusion of the evidence, the Fast Track Arbitral Tribunal may direct all the parties to file their written notes of arguments or may, at its discretion, permit oral arguments and shall fix a time schedule therefor and may also restrict the length of oral arguments.

Conduct of
proceedings.

6. (1) The Fast Track Arbitral Tribunal shall conduct its proceedings in such manner that the arbitral proceedings are, as far as possible, taken up on day-to-day basis at least continuously for three days on each occasion.

(2) The Fast Track Arbitral Tribunal shall ordinarily fix the time schedule in such manner that the proceedings are conducted continuously from 10.30 A.M. to 1 P.M. and 2 P.M. to 4.30 P.M. every day.

Parties to be
bound by the
procedure and
time schedule.

7. The time schedule fixed under paragraphs 3 and 5 and the manner of conducting proceedings and fixing the time schedule under paragraph 6 by the Fast Track Arbitral Tribunal, shall be binding on the parties.

Consultation
of experts.

8. (1) At any time during the course of arbitration and before the passing of the award, the Fast Track Arbitral Tribunal may, at its discretion, if need be, consult any expert or technically qualified person or a qualified accountant for assistance in relation to the subject-matter in dispute, at the expense of the parties, and shall communicate the report of aforesaid person to the parties to enable them to file their response.

(2) If the Fast Track Arbitral Tribunal thereafter considers on its own or on the request of parties that any clarification or examination of a person referred to in subparagraph (1) or examination of any other person is necessary, it may call upon such person to clarify in writing or to call him or such other person as a witness for necessary examination.

Procedure in
cases of
default by
parties.

9. (1) In case there is default on the part of any party to adhere to the time limits specified in this Schedule or as fixed by the Fast Track Arbitral Tribunal or there is violation of any interim orders or directions of the Fast Track Arbitral Tribunal issued under section 17 or under this Schedule, the Fast Track Arbitral Tribunal may pass peremptory orders against the defaulting party giving further time for compliance including peremptory orders to provide appropriate security in connection with an interim order or direction.

(2) In case the Fast Track Arbitral Tribunal is satisfied that a party to the arbitration is unduly or deliberately delaying the arbitral proceedings, or the implementation of the peremptory orders, the Fast Track Arbitral Tribunal may impose such costs as it

may deem fit on the defaulting party or may pass an order striking out the pleadings of the party concerned or excluding material or draw adverse inference against the said party and in case security for costs of arbitration is not furnished as required under sub-paragraph (1), the claim may be dismissed.

(3) Without prejudice to the provisions of sub-paragraph (2), the Fast Track Arbitral Tribunal may dismiss the claim if the claimant does not effectively prosecute the arbitral proceedings or file the papers within the time granted or neglects or refuses to obey the peremptory orders of the Fast Track Arbitral Tribunal or to pay the dues or deposits as ordered by the Fast Track Arbitral Tribunal:

Provided that the failure to file a statement of defence to the claim statement or to the counter claim shall not by itself be treated as an admission of the allegations in the claim statement or in the counter claim, as the case may be.

(4) If the opposite party does not file its defence or does not effectively prosecute its defence or file the papers within the time granted or refuses to obey the peremptory orders of the Fast Track Arbitral Tribunal, such Tribunal may make an *ex parte* award.

10. (1) The Fast Track Arbitral Tribunal shall make an award within six months from the date of its constitution or within such extended period specified in sub-paragraphs (2) to (4).

Fast Track award to be passed in six months.

(2) The parties may, by consent, extend the period specified under sub-paragraph (1), by a further period not exceeding three months.

(3) If the award is not made within the period specified under sub-paragraph (1) or the period agreed to by the parties under sub-paragraph (2), the arbitration proceeding shall, subject to the provisions of sub-paragraph (4), stand suspended until an application for extension of time is made to the High Court by any party to the Fast Track Arbitration or where none of the parties makes an application as aforesaid, until such an application is made by the Fast Track Arbitral Tribunal.

(4) The provisions of sub-sections (4) to (8) of section 29A shall, so far as may be, apply for disposal of the application referred to in sub-paragraph (3), till the award is made.

11. The Fast Track Arbitral Tribunal shall make an award and give reasons therefor keeping in mind the time limit referred to in paragraph 10 unless it is agreed between the parties that no reasons need be given or the award is based on settlement of disputes."

Fast Track award to contain reasons.

44. (1) The provisions of the principal Act, as amended by this Act, shall, subject to the provisions of sub-sections (2) to (19), be prospective in operation and shall not, in particular, apply to—

Transitory provisions.

(i) any application made under sub-section (1) of section 8 of the principal Act by a party to the arbitration agreement before a judicial authority, or any appointment made by the judicial authority under that section, before the commencement of this Act; or

(ii) any request made under section 11 of the principal Act to a party, or the Chief Justice of India or his designate, or the Chief Justice of a High Court or his designate, before the commencement of this Act; or

(iii) any appointment of arbitral tribunal made under section 11 of the principal Act by—

(a) the parties to the arbitration agreement;

(b) a party who is authorised under the arbitration agreement to make such appointment without the consent of the other party or parties to the arbitration agreement; or

(c) the Chief Justice of India or his designate or the Chief Justice of a High Court or his designate, before the commencement of this Act;

(iv) any award passed under the principal Act, before the commencement of this Act.

(2) The provisions of this Act shall, subject to the provisions of sub-sections (3) to (19), apply to the arbitration agreements entered into before the commencement of this Act, where no—

(i) request for appointment of arbitral tribunal; or

(ii) application for appointment of arbitral tribunal; or

(iii) appointment of arbitral tribunal,

has been made under the principal Act, before the commencement of this Act.

(3) The provisions of clause (b) of sub-section (2) of section 2, as inserted in the principal Act by clause (b) of section 4 of this Act, shall apply to the applications made under section 8 of the principal Act before a judicial authority in a legal proceeding, or under section 9 of the principal Act before a Court, which are pending on the commencement of this Act in connection with the arbitrations of the nature specified in sub-section (2) of section 2 of the principal Act.

(4) The provisions of section 2A, as inserted in the principal Act by section 5 of this Act, shall apply to arbitral proceedings under the principal Act, pending before the principal Courts referred to in that section, on the commencement of this Act.

(5) The provisions of section 6 of the principal Act, as amended by section 7 of this Act, shall apply to arbitral proceedings under the principal Act, pending before an arbitral tribunal, on the commencement of this Act.

(6) The provisions of sub-sections (4), (5) and (6) of section 9, as substituted by section 11 of this Act, shall apply to all applications under section 9, pending in the Court on the commencement of this Act.

(7) The provisions of section 17 of the principal Act, as substituted by section 16 of this Act, shall apply to arbitral proceedings under the principal Act, pending before an arbitral tribunal on the commencement of this Act.

(8) The provisions of sub-section (1) of section 20 of the principal Act, as substituted by section 17 of this Act, shall apply to arbitration agreements in relation to which requests for appointment of arbitral tribunal and applications for appointment of arbitral tribunal are pending decision on the commencement of this Act, if the arbitral tribunal has not been appointed on or before such commencement.

(9) The provisions of sub-section (1) of section 23 of the principal Act, as amended by section 18 of this Act, shall apply to arbitral proceedings under the principal Act, pending before an arbitral tribunal on the commencement of this Act, where the claim, defence or rejoinder statements have not been filed before the arbitral tribunal on or before such commencement.

(10) The provisions of sub-section (1) of section 24 of the principal Act, as amended by section 19 of this Act, and sub-section (1A) of section 24 of the principal Act, as inserted by that section, shall apply to arbitral proceedings under the principal Act, pending before an arbitral tribunal on the commencement of this Act, where oral evidence or oral arguments, as the case may be, have not been completed on or before such commencement.

(11) The provisions of section 24A, as inserted in the principal Act by section 20 of this Act, shall apply to the directions made under section 17, the time schedules determined under section 23 or the orders passed under section 24 by the arbitral tribunal, the principal

Act before the commencement of this Act, where such directions, time schedules or orders have not been complied with on or before such commencement by the party to whom they were directed or ordered.

(12) The provisions of section 28 of the principal Act, as amended by section 21 of this Act, shall apply to arbitration agreements in relation to which requests for appointment of arbitral tribunal and applications for appointment of arbitral tribunal are pending decision on the commencement of this Act, if the arbitral tribunal has not been appointed on or before such commencement.

(13) The provisions of sub-section (3) of section 29, as inserted in the principal Act by section 22 of this Act, shall apply to arbitral proceedings under the principal Act pending before the arbitral tribunal on the commencement of this Act, if awards have not been passed on or before such commencement.

(14) The provisions of section 29A, as inserted in the principal Act by section 23 of this Act, shall, subject to —

(a) sub-section (3) of section 43A and sub-section (6) of section 43B, as inserted in the principal Act by section 33; and

(b) sub-paragraph (4) of paragraph 10 of the First Schedule, as inserted in the principal Act by section 43,

of this Act, apply to arbitration proceedings commenced on and from the commencement of this Act.

(15) The provisions of —

(i) section 34 of the principal Act, as amended by section 26; and

(ii) section 34A, as inserted in the principal Act by section 27,

of this Act, shall apply to arbitration awards passed before the commencement of this Act which have not become final, and applications seeking leave under sub-section (2) of section 34A may be filed within a period of three months from the date of such commencement in the Arbitration Division in respect of pending applications under sub-section (1) of section 34 of the principal Act or in pending appeals in the Supreme Court.

(16) The provisions of section 36 of the principal Act, as substituted by section 28 of this Act, shall apply to all awards made under the principal Act pending enforcement on the commencement of this Act.

(17) The provisions of sub-sections (1) and (2) of section 37C, as inserted in the principal Act by section 30 of this Act, shall apply to applications under sub-section (1) of section 34 of the principal Act and appeals under section 37 of the principal Act pending on the commencement of this Act, if no notice has been issued by the Court under sub-section (1) of section 34 or under section 37 of the principal Act before such commencement.

Provided that where the Court in such application or appeal has issued notice, the provisions of sub-section (1) of section 37C of the principal Act shall not apply.

(18) The provisions of section 42 of the principal Act, as substituted by section 31 of this Act, shall apply to subsequent applications which may be filed after the commencement of this Act.

(19) The provisions of sub-section (5) of section 43, as inserted in the principal Act by clause (b) of section 32 of this Act, shall apply to the orders referred to in that sub-section, if such orders are passed on or from the commencement of this Act, in arbitral proceedings under the principal Act, pending before an arbitral tribunal on such commencement.

STATEMENT OF OBJECTS AND REASONS

The general law relating to arbitration is contained in the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the existing Act). The Act which is based on the UNCITRAL Model Law on International Commercial Arbitration as adopted in 1985 by the United Nations Commission on International Trade Law (UNCITRAL), applies to both international as well as to domestic arbitration.

Ever since the commencement of this Act, requests have been voiced for its amendment. The main problem with the existing Act was that UNCITRAL Model Law which was meant as a Model for International Arbitration was adopted also for domestic arbitration between Indian parties in India. In several countries the laws of arbitration for international and domestic arbitration are governed by different statutes.

2. Some of the major shortcomings in the existing Act are as follows:—

(a) there is no provision for expediting awards or the subsequent proceedings in Courts when applications are filed for setting aside awards;

(b) for challenging an award an aggrieved party has to start again from the District Court;

(c) there is no provision enabling the Indian parties to obtain interim measures from Indian Courts before a foreign arbitration could commence outside India;

(d) the language of sections 20 and 28 is such that multinational company, even if the entire contract had to be implemented in India, could stipulate that foreign law could apply or parties could have a foreign venue—a procedure which is inconsistent with the sovereignty of the laws of our country.

3. The Law Commission of India undertook a comprehensive review of the existing Act and made recommendations in its 176th Report. The Report also contains a draft Arbitration and Conciliation (Amendment) Bill, 2001. The Government, after inviting comments of the State Governments and certain commercial organisations, on the Report and draft Bill has decided to accept almost all the recommendations. In addition some suggestions made in a special seminar organized by the Law Ministry by the leading senior lawyers, jurists and representatives of commercial organisations have also been accepted.

4. Important features of the Bill are as follows:—

(i) to enable the judicial authority to decide jurisdictional issues, subject to strict rules, where an application is made before it by a party raising any jurisdictional question;

(ii) to empower the Courts to make reference to arbitration in case all the parties to a legal proceeding enter into an arbitration agreement to resolve their disputes during the pendency of such proceeding before it;

(iii) to provide for the appointment of arbitrators by the Chief Justice of the Supreme Court or the High Court or his nominees to be an appointment made on the judicial side with a view to prevent writ petitions being filed on the basis that it is an administrative order of the Chief Justice;

(iv) to provide that where the place of arbitration under Part I of the existing Act is in India, whether in regard to arbitration between Indian parties or an international arbitration in India and arbitration between Indian parties Indian law will apply;

(v) to provide for completion of arbitrations under the existing Act to be completed within one year from the commencement of arbitration proceedings, but at the end of

one year the Court will fix up a time schedule for completion of the proceedings until the award is passed;

(vi) to empower the arbitral tribunal to pass peremptory orders for implementation of interlocutory orders of the arbitral tribunal and in case they are not implemented, to enable the Court to order costs or pass other orders in default;

(vii) to provide for the Arbitration Division in the High Courts, and also for its jurisdiction and special procedure under Chapter IXA for the speedy enforcement of awards made under the Arbitration Act, 1940, the existing Act including awards made outside India;

(viii) to provide provisions for speeding up and completing all arbitrations under the existing Act, including those arbitrations pending under the repealed Arbitration Act, 1940 within a stipulated time;

(ix) to introduce a new Chapter XI relating to single member fast track arbitral tribunal wherein the filing of pleadings and evidence will be on fast track basis and award will have to be pronounced within six months and to specify procedure therefor in a new Schedule.

5. The Bill seeks to achieve the above objects.

ARUN JAITLEY.

NEW DELHI;
The 19th December, 2003.

Notes on clauses

Clause 2 of the Bill seeks to amend the long title of the Arbitration and Conciliation Act, 1996.

Clause 3 seeks to amend the proviso to sub-section (2) of section 1.

Clause 4 seeks to amend section 2 to re-define some of the expressions used in the Act. The scope of some of the definitions have been broadened and some new definitions have been added.

Clause 5 seeks to enable the principal Civil Court of original jurisdiction in a district or the Court of principal judge of the City Civil Court to transfer cases to other Courts of coordinate jurisdiction in the district or the city, so that all cases do not stagnate in the principal Courts.

Clause 6 seeks to amend section 5 to provide clarification that all other remedies, i.e., remedies under the Code of Civil Procedure, 1908, remedies of internal appeals within the High Court and under any other special law, are barred.

Clause 7 seeks to amend section 6 to provide that the arbitral tribunal can arrange administrative assistance without consent of parties.

Clause 8 seeks to amend clause (b) of sub-section (4) of section 7 to provide that, apart from written agreements, other written communications accepted expressly or by implication which also result in an arbitration agreement shall come within the scope of an arbitration agreement.

Clause 9 seeks to amend section 8 to enable the judicial authority to decide jurisdictional issues subject to strict rules, in case they are raised before filing the first statement and also to enable that authority to stay the action till a decision is given by the Judicial authority on those authorities, provided the strict rules imposed by new sub-sections (4) and (5) are satisfied. The judicial authority will not decide jurisdictional issues if it finds the reasons specified in sub-section (5) for not deciding the issues. Sub-section (6) provides that when the arbitration clause is declared void, etc., the principle that if there is an arbitration clause, no party can file an action in Court unless he first obtains an award, shall not apply.

Clause 10 seeks to insert a new section 8A to enable to permit reference to arbitration at any stage of a civil suit, whether in appeal in Supreme Court or High Court, if all parties enter into an arbitration agreement to resolve their disputes, after the action is filed.

Clause 11 seeks to substitute section 9 with a reconstructed section to bring to the forefront the larger and more general part of the powers which are relegated towards the end and shift the specified interim measures lower down. It also provides to further enlarge the categories of interim measures specified in the substituted section.

Clause 12 seeks to amend section 11 to provide that after the time limit specified in sub-section (4), if no reply is sent, the privilege under the agreement to appoint arbitrators gets extinguished (this is to resolve conflicting judgments in High Court and to adopt the principle laid down by the Supreme Court). Secondly, it provides that the appointment of arbitral tribunal by the Supreme Court and the High Court will be on the judicial side and not on the administrative side as decided by the Supreme Court.

Clause 13 seeks to amend section 12 requiring the arbitrator to disclose the existence of any past or present relationship, either direct or indirect, with any of the parties or any of their counsel, whether financial, business, professional, social or other kind or in relation to the subject-matter in dispute.

Clause 14 seeks to amend section 14 to provide that where the mandate of the arbitrator is terminated, the Court may decide the quantum of fee payable to him.

Clause 15 seeks to amend section 15 to fix a time limit of thirty days for appointing a substitute arbitrator and also provides that when the mandate of the arbitrator is terminated, the Court may decide the quantum of fee payable to him.

Clause 16 seeks to substitute section 17 to provide that powers of the arbitral tribunal to issue interim measures and to increase the types of interim measures as contained in the English Arbitration Act that may be issued by the arbitral tribunal.

Clause 17 seeks to substitute section 20 to bring out the real purport of the section, namely, that the place of arbitration under Part I is in India, whether in regard to arbitration in India between Indian parties or where it is an international arbitration in India. It is intended to prevent Indian subsidiaries incorporated by foreign companies from stipulating a venue of arbitration outside India.

Clause 18 seeks to amend section 23 to provide that the time for filing statements of claim or defence will be as per the order of the arbitrators and will no longer be based on agreement of the parties and also to empower the High Court to make rules to expedite the arbitral process.

Clause 19 seeks to amend section 24 to provide for the manner in which the hearings and written proceedings are to be conducted before the arbitral tribunal, without any scope for parties to agree in a manner different from the one fixed by the arbitral tribunal. Sub-sections (1B) and (1C) provide for the arbitral tribunal to control the time schedule of hearing and the time schedule fixed by the arbitral tribunal shall be binding on the parties. The arbitral tribunal can also receive affidavits in lieu of oral evidence subject to the arbitral tribunal's right to call the witnesses for oral examination.

Clause 20 seeks to insert two new sections 24A and 24B. Section 24A empowers the arbitral tribunal to pass peremptory orders for implementation of interlocutory orders of the arbitral tribunal and in case they are not implemented, to enable the Court to order costs or pass other orders in default. Section 24B enables the parties or the arbitral tribunal to approach the Court for implementation of the orders of the arbitral tribunal.

Clause 21 seeks to amend section 28 to provide that in the case of an arbitration other than international arbitration under Part I in India, the dispute is to be decided in accordance with the substantive law in force in India.

Clause 22 seeks to amend section 29 to provide that where there is no majority, the award shall be the one prepared by the presiding arbitrator of the arbitral tribunal and that the minority decision, if made available in thirty days, is appended to the award so that the Court when it considers the validity of the award, it may have an idea about the reasons for the dissent.

Clause 23 seeks to insert new section 29A to provide for the pronouncement of the award within one year after the commencement of the arbitral proceedings unless the time is extended in accordance with the provisions of sub-sections (2) to (5). In order to avoid stay of arbitral proceedings by the Court pending decision on applications for extension filed in the Court, it is provided that at the end of one year from the date of commencement of arbitration proceedings, the proceedings shall stop but would get automatically revived if an application is filed in the Court by any party or by the arbitral tribunal, for extension of time. Further, the Court will then fix up a time schedule for completion of the proceedings until the award is passed. The Court can impose costs to prevent delays before the arbitral tribunal. While fixing time schedule to the arbitrators, the Court will bear in mind certain conditions specified in the section.

Clause 24 seeks to amend section 31 to empower the arbitral tribunal to specify such rate of interest, which a sum directed to be paid by the arbitral award shall carry, from the date of award to the date of payment, as it may deem reasonable.

Clause 25 seeks to insert a new section to provide that a photo copy of every award together with original records of arbitration 33A proceedings to be sent to the Court for purposes of record and a register containing the specified particulars will be maintained by the Court. The new section also provides that parties can obtain copies of award or the arbitral records.

Clause 26 seeks to amend section 34 to provide that the party which does not have the original order, can file a photocopy of the award along with his application to set aside the award and that in all arbitrations in India whether international or not, the award can be set aside on an additional ground, i.e., if the award does not contain reasons as required by sub-section (3) of section 31. It is provided to fix time limit for the arbitral tribunal to pass orders in case of remittal to it, as to the manner in which the Court should thereafter deal with the award and the procedure on remittal to arbitral tribunal. Further, in order to clarify that 'public policy' does not have the extended meaning as in the recent case of *ONGC vs. Saw Pipes*: 2003 (5) SCC 705 decided by the Supreme Court for purposes of Part I and Part II and to remove doubts, an *Explanation* to the words 'contrary to public policy' in sections 34, 48(2)(b) and 57(1)(e) is provided to mean contrary to (i) fundamental policy of India or (ii) interests of India or (iii) justice or morality, thus retaining the meaning given by the Supreme Court in the *Renuagar* case both for purposes of Part I and Part II.

Clause 27 seeks to insert a new section 34A to provide that where the award is not an international award in India, the parties can challenge the award on the additional ground that there is an error which is apparent on the face of the award giving rise to a substantial question of law. However, in order to prevent abuse of this right, it is provided that a separate application for raising the ground must be independently accepted by the Court (Arbitration Division) and that the right is subject to further stringent conditions set out in clauses (a), (b) and (c) of sub-section (2).

Clause 28 seeks to substitute a new section for section 36 to provide that the award will be enforceable after the period fixed for filing applications under section 34 has expired, unless the Court stays its enforcement and the Court is being vested with powers to refuse stay or grant stay subject to conditions. While granting stay, the Court can impose conditions, keeping the scope of interference in applications under sub-section (1) of section 34 in mind. The manner of imposing conditions and interim measures are also specified.

Clause 29 seeks to amend section 37 to provide that all applications under section 34 are to be filed in the High Court to be dealt with by the Arbitration Division irrespective of pecuniary value and also in the disposal of interlocutory appeals, the appellate Court shall, so far as may be, follow the special procedure contained in sections 37C to 37F.

Clause 30 seeks to insert new sections 37A to 37F under a new Chapter IXA to provide that every High Court shall as soon as may be after the commencement of the Arbitration and Conciliation (Amendment) Act, 2003, constitute an Arbitration Division in the High Court to deal, irrespective of pecuniary value, with matters, (a) applications under sub-section (1) of section 34 to set aside awards under the principal Act, new and pending, (b) appeals to set aside awards under the Arbitration Act, 1940, new and pending, (c) enforcement of awards under the principal Act, new and pending and (d) execution of awards under the Arbitration Act, 1940, new and pending, so that the present procedure at two levels, one in the subordinate Courts (or original side of High Court) and another by way of appeal to or in the High Court is avoided. For all these classes of cases, time limits have also been provided. Section 37A is to deal with future matters and section 37B to deal with pending matters. Section 37C is similar to Order 41, Rule 11 of the Code of Civil Procedure, 1908 and permits dismissal of fresh applications under section 34 and fresh appeals under the Arbitration Act, 1940, if no *prima facie* case made out. Section 37D prescribes the time limits of one year or six months for main matters or six months depending upon the stage of the matter from the date of commencement of the Arbitration and Conciliation (Amendment) Act, 2003 and section 37E prescribes the time limits for filing papers books, written submissions and oral submissions. Section 37F requires case management procedures to be followed before a Single Judge for fixing time schedules in the Arbitration Division.

Clause 31 seeks to substitute new sections 42, 42A and 42B for section 42. Substituted section 42 provides as to where subsequent applications have to be filed, that is to say, if a reference to arbitration is made by the Supreme Court or the High Court in a pending matter under section 8A, all subsequent applications shall respectively be made in those Courts only. Section 42A enables the Chief Justice of India to prepare a scheme, empanelling retired Judges or experts in various branches as arbitrators subject to such conditions as may be specified by the Chief Justice of India. Section 42B seeks to nullify the effect of, or remove the disability carried by, any amendment made in section 69 of the Indian Partnership Act, 1932, excluding arbitration.

Clause 32 seeks to amend section 43 by deletion of sub-section (3) in view of the fact that time barred clauses have already become void on account of the amendment of section 28 of the Indian Contract Act, 1832 by the Indian Contract (Amendment) Act, 1996. Further, new sub-section (5) provides for the exclusion of the period covered by various other proceedings enumerated in clauses (a), (b) and (c).

Clause 33 seeks to insert new sections 43A to 43F to provide speeding up arbitration proceedings on Fast Track Arbitration. New section 43A provides that if arbitration proceedings under the Arbitration and Conciliation Act, 1996 pending before the tribunal, they have to be completed within six months and in other cases, within one year, from the date of commencement of the Arbitration and Conciliation (Amendment) Act, 2003. Otherwise, the provisions under the new section 29A will apply and the Court will monitor the arbitral proceedings till award is passed. Likewise, under proposed section 43B, if arbitration proceedings under the Arbitration Act, 1940 are pending on the commencement of the Arbitration and Conciliation (Amendment) Act, 2003 before the arbitrators, they have to be completed within six months from the date of such commencement, otherwise the procedure as laid down in section 29A will apply. Sections 43C to 43F to deal with Fast Track Arbitration (the procedure therefor is contained in the substituted new First Schedule) providing for 'fast track' arbitration where both parties agree for such Fast Track Arbitration. Notwithstanding the agreement for multiplicity of arbitrators, the arbitration will be by a sole arbitrator. The periods specified in various sections for the purpose of taking various steps in the arbitration proceedings are to be cut down as provided in section 43D. Section 43E provides that all subsequent applications in Fast Track Arbitration will have to be filed in the High Court and will be allocated to the Arbitration Division. Section 43F seeks to define the 'High Court' for purposes of Chapter XI.

Clause 34 seeks to amend section 44 to re-number the First, Second and Third Schedules as Second, Third and Fourth Schedules.

Clause 35 seeks to amend section 47 by modifying the existing *Explanation* to provide that 'Court' means the 'Arbitration Division', so that applications for enforcement of foreign awards both under Chapter I and Chapter II of Part II can be filed in the High Court and allocated to the Arbitration Division for enforcement.

Clause 36 seeks to amend section 50 to provide that an appeal shall lie to the Arbitration Division, rather than to a Court at the district level or to the original side of the High Court.

Clause 37 seeks to amend section 53 to relocate the existing Schedules.

Clause 38 seeks to amend section 56 by inserting an *Explanation* on a similar line as in clause 35 above.

Clause 39 seeks to amend section 59 on the lines of clause 36 above.

Clause 40 seeks to insert new sections 60A and 60B. Section 60A seeks to provide that fresh application for enforcement of foreign awards under Part II of the Arbitration and Conciliation Act, 1996 (New York and Geneva Conventions) may be filed in the Arbitration Division. Further, provision is made for transfer of pending applications and also appeals in relation to enforcement of foreign awards, to be dealt with by the Arbitration Division. Section 60B prescribes time limits for disposal of these applications for enforcement of foreign awards, whether the matters are fresh or pending.

Clause 41 seeks to amend section 82 to enumerate in detail some matters on which the High Court may make rules.

Clause 42 seeks to amend section 84 to enumerate the matters on which the Central Government may make rules.

Clause 43 seeks to relocate the existing Schedules after insertion of a new First Schedule which deal with Fast Track Arbitrations.

Clause 44 seeks to provide transitory provision providing that the amendments will be prospective in operation except to the extent referred to in sub-sections (1) to (19).

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill seeks to insert a new sub-section (15) in section 11 empowering the Central Government, after consultation with the Chief Justice of India, to prescribe the manner in which fee of members of an arbitral tribunal be fixed and the procedure to be followed in relation to fixation of such fee. Clause 25 of the Bill seeks to insert a new section 33A with a view to providing for filing of a photocopy of the arbitral award together with original arbitral records in the Court and the Central Government is being empowered to prescribe other particulars the register may contain.

2. The aforesaid matters in respect of which rules may be made by the Central Government are matters of detail and it is not practicable to provide for all the matters in the Bill itself. Delegation of legislative power is, therefore, of a normal character.

YOGENDRA NARAIN,
Secretary-General.